

MEETING  
STATE OF CALIFORNIA  
AIR RESOURCES BOARD

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT OFFICE  
AUDITORIUM  
21865 COPLEY DRIVE  
DIAMOND BAR, CALIFORNIA

THURSDAY, SEPTEMBER 24, 2009

9:01 A.M.

TIFFANY C. KRAFT, CSR, RPR  
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APPEARANCES

BOARD MEMBERS

Ms. Barbara Riordan, Acting Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Dorene D'Adamo

Ms. Lydia Kennard

Mr. Ronald O. Loveridge

Dr. Daniel Sperling

Dr. John Telles

Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Mr. Tom Cackette, Chief Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Mr. Michael Scheible, Deputy Executive Officer

Ms. Lynn Terry, Deputy Executive Officer

Ms. LaRonda Bowen, Ombudsman

Ms. Sarah Carter, Low-Emissions Vehicle Implementation  
Section, Mobile Source Control Division

Ms. Susan Fischer, Ph.D., Climate Action and Research  
Planning Section, Research Division

Ms. Trish Johnson, Measures Development Section,  
Stationary Source Division

Ms. Monica Vejar, Board Clerk

Mr. Erik Winegar, Planning and Technical Support Division

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Naveen Berry, SCAQMD

Mr. Bryan Bloom

Mr. Lee Brown, California Dump Truck Owners Association

Mr. Steve Bunting, Southern California Fire Prevention  
Officers

Mr. Luis Cabrales, CCA

Mr. John Cabanis, the Association of International Auto  
Manufacturers

Ms. Yolanda Chavez, LBACA

Ms. Martha Cota, LBACA

Mr. David Darling, National Paint & Coating Association

Mr. William Davis, Southern California Contractors  
Association

Mr. James Enstrom, University of California

Mr. Douglas Fratz, Consumer Specialty Products Association

Mr. Gary Gero, Climate Action Reserve

Ms. Addie Jacobson, Ebbetts Pass Forest Watch

Mr. Gregory Johnson, Sherwin-Williams Diversified Brands

Mr. Dave Laucella, Shell Chemical, ACCSIG

Ms. Maria Yolanda Lopez, LBACA

Mr. Paul Mason, Pacific Forest Trust

Mr. Clayton Miller, CIAQC

Ms. Eileen Moyer, Reckitt Benckiser

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Ed Murphy, Sierra Pacific Industries

Ms. Sheila Nem, Coalition for Clean Air

Mr. Brian Nowicki, Center for Biological Diversity

Ms. Michelle Passero, The Nature Conservancy

Mr. Doug Raymond, WMBARR

Dr. John Reed

Ms. Susan Robinson, Mountain Alliance

Ms. Elena Rodriguez, LBACA

Mr. Gary Ryneauson, Green Diamond Resource Co.

Mr. Eddie Scher

Mr. Jim Stewart, Sierra Club

Mr. Chet Thompson, American Chemistry Counsel

Ms. Morgan Wyenn, Natural Resources Defense Council

Mr. Steve Weitekamp, CMSA

Dr. Katy Wolt, IRTA

Mr. Joseph Yost, Consumer Specialty Products Association

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	INDEX	PAGE
Item 09-8-3		
Acting Chairperson Riordan		11
Executive Officer Goldstene		11
Mr. Liu		13
Item 09-8-6		
Acting Chairperson Riordan		13
Executive Officer Goldstene		14
Motion		16
Vote		16
Item 09-8-2		
Acting Chairperson Riordan		16
Executive Officer Goldstene		16
Staff Presentation		17
Board Q&A		30
Mr. Weitekamp		36
Mr. Bloom		38
Mr. Brown		41
Mr. Enstrom		42
Dr. Reed		44
Mr. Davis		46
Mr. Lewis		48
Board Discussion		51
Motion		59
Vote		59

Item 09-8-4	
Acting Chairperson Riordan	60
Executive Officer Goldstene	60
Staff Presentation	62
Board discussion	75
Mr. Yost	77
Mr. Fratz	80
Mr. Johnson	82
Ms. Rodriguez	84
Mr. Cabrales	85
Ms. Nem	87
Mr. Thompson	89
Mr. Laucella	92
Mr. Raymond	94
Ms. Moyer	97
Mr. Darling	98
Mr. Stewart	99
Mr. Berry	101

□

INDEX CONTINUED

	PAGE
Ms. Wyenn	102
Mr. Bunting	104
Ms. Chavez	105
Ms. Lopez	106
Ms. Cota	107
Dr. Wolt	109
Motion	116
Vote	116
Item 09-8-7	
Acting Chairperson Riordan	117
Executive Officer Goldstene	119
Staff Presentation	120
Mr. Cabaniss	128
Motion	131
Vote	132
Item 09-8-8	
Acting Chairperson Riordan	132
Executive Officer Goldstene	133
Staff Presentation	134

Mr. Gero	143
Mr. Mason	152
Mr. Scher	153
Mr. Nowicki	155
Ms. Jacobson	158
Mr. Ryneauson	160
Ms. Robinson	163
Mr. Murphy	165
Mr. Stewart	167
Ms. Passero	169
Board Discussion	172
Motion	185
Vote	188
Item 09-8-9	
Acting Chairperson Riordan	188
Executive Officer Goldstene	189
Ms. Wyenn	190
Mr. Stewart	192
Mr. Miller	193
Adjournment	194
Reporter's Certificate	195

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1 PROCEEDINGS

2 ACTING CHAIRPERSON RIORDAN: Ladies and

3 gentlemen, if you would take your seats, we're going to

4 start almost on time.

5 And let me say good morning and call the

6 September 24th public meeting of the Air Resources Board

7 to order. My name is Barbara Riordan, and I'm going to be

8 chairing the meeting in the absence of our Chairman, Mary

9 Nichols. She will not be able to be here today. She's

10 with the Governor. And she will be here tomorrow.

11           So with that, let me invite you all to join me in  
12 the pledge to our flag.

13           (Thereupon the Pledge of Allegiance was  
14 Recited in unison.)

15           ACTING CHAIRPERSON RIORDAN: Madam Clerk, would  
16 you please call the roll?

17           BOARD CLERK VEJAR: Dr. Balmes?

18           BOARD MEMBER BALMES: Present.

19           BOARD CLERK VEJAR: Ms. Berg?

20           BOARD MEMBER BERG: Here.

21           BOARD CLERK VEJAR: Ms. D'Adamo?

22           BOARD MEMBER D'ADAMO: Here.

23           BOARD CLERK VEJAR: Ms. Kennard?

24           BOARD MEMBER KENNARD: Here.

25           BOARD CLERK VEJAR: Mayor Loveridge?

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1           Ms. Riordan?

2           ACTING CHAIRPERSON RIORDAN: Here.

3           BOARD CLERK VEJAR: Supervisor Roberts?

4           Professor Sperling?

5           BOARD MEMBER SPERLING: Here.

6           BOARD CLERK VEJAR: Dr. Telles?

7           BOARD MEMBER TELLES: Here.

8           BOARD CLERK VEJAR: Supervisor Yeager?



9 BOARD MEMBER YEAGER: Here.

10 BOARD CLERK VEJAR: Chairman Nichols?

11 Madam Chair, we have a quorum.

12 ACTING CHAIRPERSON RIORDAN: Thank you very much.

13 We're delighted to be here today at the South  
14 Coast venue.

15 And for those who might be in the audience from  
16 the staff here at South Coast, thank you for the  
17 opportunity to use this meeting room. We're very  
18 appreciative.

19 And just a couple of notes on that very item.  
20 I've been asked to indicate to you we have about five  
21 emergency exits here, and they are well lit. We would  
22 direct your eyesight to one of those exits and so you can  
23 be prepared, if necessary.

24 Also, today, let me indicate to you we have  
25 changed the order of our agenda just with one item. That

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1 item is 09-8-4. That will be coming at the end of the day  
2 instead of where it is located on the published agenda.  
3 We will deal with that at the end of the day. And so we'd  
4 like you to note that.

5 Also --

6 EXECUTIVE OFFICER GOLDSTENE: Madam Chair?

7 ACTING CHAIRPERSON RIORDAN: Yes, Mr. Goldstene.

8 EXECUTIVE OFFICER GOLDSTENE: I think it's 9-8-9,  
9 the update on the workshop for the Enforcement program.

10 ACTING CHAIRPERSON RIORDAN: Oh, I'm sorry.  
11 You're right. It's 9-8-5, correct?

12 EXECUTIVE OFFICER GOLDSTENE: Nine.

13 ACTING CHAIRPERSON RIORDAN: Nine, okay. I will  
14 change that at first break.

15 Next, let me indicate to you it's my pleasure to  
16 join with the Board to introduce our new Ombudsman. Her  
17 name is LaRonda Bowen. And, LaRonda, if you would stand  
18 up, I'd like you to come to the microphone, because you  
19 might just want to welcome -- we want to welcome you and  
20 you might want to give us a bit of your background.

21 She is a communications professional. She has  
22 led a number of stakeholder processes that are committed  
23 to resolving issues sometimes controversial. She's been  
24 an advisor to the U.S. EPA, and she has helped establish a  
25 nationwide model for small business assistance and

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1 compliance with the Federal Clean Air Act. And that I  
2 think is so important that she's had this wonderful  
3 experience.

4           She's also an authorist. She recently completed  
5 a book called, "Power Surge, Winning Against the Odds,"  
6 about some of the more current issues that a particular  
7 power plant faced. And then she's also authored a chapter  
8 in the upcoming "Centennial History of the California  
9 Writers Club."

10           Her background is from small business. And  
11 that's why it's so important to have her, because she's  
12 the one that's going to do a lot of the outreach to our  
13 small businesses that are wanting to comply with our  
14 regulations but needing the help to comply.

15           So may I just invite you to, LaRonda, say a few  
16 words about yourself that you might like to say?

17           OMBUDSMAN BOWEN: Well, first, I want to thank  
18 you and thank all the members of the Board for welcoming  
19 me and for allowing me to have this opportunity to serve,  
20 not only you, but also the small business owners and  
21 operators and all the residents of the state of  
22 California.

23           I do look forward to working to engage more of  
24 our stakeholders in all of our processes, not only to do  
25 outreach to them, but also encouraging them to do in-reach

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1 to us and helping to strengthen us as an agency and making  
2 sure that we go forward in a way that's collaborative as  
3 the staff has done in the past, but I would like to  
4 strengthen that. So I'm very interested in making sure  
5 that we can all work together to make the economy move  
6 forward and to protect our environment.

7 I just want to appreciate you, but especially  
8 want to appreciate James and Mary. They welcomed me so  
9 warmly as a new member of the staff. And everyone has.  
10 And I feel like I'm still at home. Thank you.

11 ACTING CHAIRPERSON RIORDAN: Thank you very much.  
12 We welcome you again.

13 Now to some business that's always important to  
14 the Board. And that is let me introduce Paul Wright,  
15 who's going to explain a little bit about the dais and the  
16 electronics of the dais so that we can function throughout  
17 the day without causing a problem.

18 Paul, do you want to explain the system to us,  
19 please, with the microphones?

20 MR. WRIGHT: Once again, Madam Chair and Board  
21 members and staff, welcome back to Diamond Bar. Most of  
22 you are returnees and are familiar with the system. For  
23 those of you that it's your first time here in our  
24 auditorium, when you wish to speak, simply press the  
25 yellow button below the microphone. Speak directly into

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1 the microphone. Those of you at the dais or staff  
2 positions, it drives the microphone and the camera as  
3 well. When you've concluded speaking, turn your  
4 microphone off.

5           And those of you in the back row, if you happen  
6 to have your notebook or something on that switch, it will  
7 activate the cameras to you, even though you don't know  
8 it. So just kind of watch that. That's an accidental  
9 thing that happens at times.

10           And regarding the timing, we'll coordinate that  
11 for the speaker's timers.

12           If you need anything at the dais, just wave and  
13 I'll assist you.

14           Once again, welcome to Diamond Bar. We look  
15 forward to helping you in any way possible. Thank you.

16           ACTING CHAIRPERSON RIORDAN: Thank you, Paul.  
17 It's always good to see you, and we appreciate what you do  
18 for us.

19           Let me indicate a couple of other items for  
20 people in the audience.

21           If you wish to speak, our sign-up table is  
22 outside of the door to the auditorium. If you would sign  
23 up there, we need you to sign up on our speaker slips.

24           And those of you who are going to speak, a few  
25 words of caution. We do allow three minutes for your

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1 presentation. Because we will take your written comments  
2 and file them and make them part of the record, we don't  
3 need you to read those written statements. We want you to  
4 tell us the main points in your own words.

5           You will see that there is a clock that is in  
6 front of the speaker's podiums there where Paul is, so you  
7 can pretty well see the clock. Paul will be timing you.  
8 And when your time is complete, we'll ask you to wrap up  
9 your comments. And we will keep to those three minutes.

10           Also, just for your information, I think it's  
11 good to continue to listen, because I may ask for several  
12 speakers in a row if we have more speakers. Right now, it  
13 doesn't seem that's going to be necessary. But sometimes  
14 I call three or four in a row, and then if you just would  
15 come forward, then you will speak in that order using  
16 either of the microphones. So you can come down to the  
17 front row, just have a seat and we will accommodate your  
18 presentation.

19           And with that, let me move on to the first item  
20 for today. That is Agenda Item 09-8-3. This is a brief  
21 item, a report from our Executive Officer regarding  
22 recommendations we must provide to U.S. EPA as a result of  
23 the new federal air quality standard for lead.

24           Mr. Goldstene.

25           EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam

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14

1 Chair. Good morning, members.

2 The U.S. EPA recently revised the federal lead  
3 standard, lowering it to one-tenth the level of the  
4 previous standard. As a first step in implementing the  
5 revised standard, states are required to submit  
6 recommendations for area designations by October.

7 We'll be recommending designations for two areas  
8 in California. In addition, ARB and the districts will be  
9 deploying new lead monitors over the next several years,  
10 conforming to U.S. EPA's new monitoring requirements to  
11 collect additional data. We plan to revise the  
12 designations once the new information becomes available.

13 We are recommending that the portion of Los  
14 Angeles County in the South Coast Air Basin be designated  
15 as non-attainment, because monitoring data shows the  
16 standard is exceeding in this area. In addition, there is  
17 sufficient data to designate Imperial County as attainment  
18 for the new standard.

19 These recommendations will be forwarded to U.S.  
20 EPA along with supporting information provided in the  
21 staff report on this item.

22 No Board action is required today, but we're

23 happy to answer any questions you may have about this.

24 ACTING CHAIRPERSON RIORDAN: Thank you, Mr.

25 Goldstene.

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15

1 Are there any questions from the Board members?

2 I had one person signed up just for information.

3 And, Chung Liu, I know that you said you would speak only

4 if there were others that had questions. Are you

5 available for questions from the Board?

6 Chung is from the South Coast Air Quality

7 Management District.

8 MR. LIU: Good morning, Ms. Riordan and members

9 of the Board. First, welcome to Diamond Bar.

10 ACTING CHAIRPERSON RIORDAN: Thank you.

11 MR. LIU: And just want to come here to represent

12 the South Coast AQMD on this issue. We really support the

13 staff recommendation designation. That's all we want to

14 say on this issue.

15 ACTING CHAIRPERSON RIORDAN: Thank you very much.

16 I have no others wishing to speak, so I will

17 simply move on. It's not necessary to officially close

18 this, and there is no motion by the Board that has to be

19 approved.

20 So moving right along to Agenda Item 09-8-6, this



21 item addressed the appointment of a replacement member to  
22 the AB 32 Economic and Technology Advancement Advisory  
23 Committee. This Committee was formed by the Air Resources  
24 Board in January of 2007 to advise the Board regarding the  
25 implementation of AB 32. The Board is asked today to

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16

1 appoint a replacement for a member who has resigned from  
2 the Committee.

3 Mr. Goldstene.

4 EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam  
5 Chair.

6 The California Global Warming Solutions Act of  
7 2006 directed ARB to form two advisory committees, an  
8 Environmental Justice Advisory Committee and an Economic  
9 and Technology Advancement Advisory Committee, known as  
10 ETACC.

11 The Board formed these committees and appointed  
12 their members originally in January 2007. The members  
13 appointed to the ETACC by the Board were chosen to  
14 represent academia, finance, manufacturing, energy,  
15 transportation, agriculture, forestry, and business.

16 ETACC is chaired by Alan Lloyd, a former ARB  
17 Chairman and former secretary of California EPA, with Vice

18 Chair Bob Epstein, co-founder of Environmental  
19 Entrepreneurs.

20           Since the formation, ETACC has been very busy.  
21 In 2007, it gathered information and wrote a report  
22 containing advice to the Board regarding best technologies  
23 for controlling greenhouse gas emissions in California and  
24 the best ways to promote these technologies. That report  
25 was presented to the Board at our February 2008 Board

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17

1 meeting.

2           In the latter half of 2008, the Committee met an  
3 additional three times to develop comments and  
4 recommendations regarding the AB 32 draft and proposed  
5 Scoping Plan, which were provided in letters to the Board  
6 and staff.

7           This year, the Committee has met several times to  
8 prepare further recommendations to the Board regarding  
9 technology advancement and integration with anticipated  
10 federal law on climate change. The Committee plans to  
11 submit reports on these topics to the Board in the near  
12 future.

13           There are currently 21 seats on this Committee.  
14 However, the ETACC member from the California Chamber of  
15 Commerce has left the Chamber and has consequently

16 resigned from the Committee. Staff recommends that the  
17 empty seat be filled by current Chamber Vice President  
18 Marc Burgat. Mr. Burgat is the Chamber's Vice President  
19 of Governmental Affairs and has more than 15 years'  
20 experience in public policy, government,  
21 telecommunications, and advocacy.

22 ARB staff recommends the Board approve his  
23 appointment to ETACC and will be available to answer any  
24 questions, if you have any.

25 ACTING CHAIRPERSON RIORDAN: Thank you, Mr.

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18

1 Goldstene.

2 Are there any questions from the Board members?  
3 Seems pretty straight forward. There is a resolution  
4 before us. I'll accept a motion.

5 BOARD MEMBER BERG: So moved.

6 BOARD MEMBER D'ADAMO: Second.

7 ACTING CHAIRPERSON RIORDAN: Seconded.

8 BOARD MEMBER KENNARD: Second.

9 ACTING CHAIRPERSON RIORDAN: Is there any  
10 opposition to the motion? Hear or seeing none, so  
11 ordered. Thank you.

12 Next item. This is Agenda Item 09-8-2. It is

13 the consideration of ARB's planned air pollution research  
14 for fiscal year 2009-2010. The report was developed  
15 through a collaborative public, academic, and inter-agency  
16 effort and is comprised of projects that support the  
17 Board's Regulatory and policy decisions.

18 Mr. Goldstene.

19 EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam  
20 Chair.

21 Each year, ARB staff publicly solicits research  
22 ideas and develops an annual research plan that supports  
23 the Board's mission. The research ideas are evaluated by  
24 ARB staff as well as staff from other funding agencies and  
25 the Board's Research Screening Committee.

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1 This year's plan supports ARB's regulatory  
2 priorities associated with health effects and exposure,  
3 the State Implementation Plan, and climate change.

4 Twenty-two new research projects are being  
5 recommended for funding, and an additional 14 projects are  
6 offered for consideration, should more resources become  
7 available.

8 If approved by the Board, the projects described  
9 in the plan will be developed into full proposals for your  
10 approval over the next several months.

11 Dr. Susan Fischer of the Research Division will  
12 now present the proposed 09-10 Research Plan.

13 (Thereupon an overhead presentation was  
14 presented as follows.)

15 DR. FISCHER: Good morning, Madam Chair Riordan  
16 and members of the Board.

17 The Air Pollution Research Plan for fiscal year  
18 2009-2010 comprises 21 projects that address gaps to  
19 support the Board's decision-making. If approved today,  
20 these projects will be developed into full proposals and  
21 brought to the Board for approval for the next few months.

22 --o0o--

23 DR. FISCHER: Established by the State  
24 Legislature in 1971, ARB's program of research probes  
25 causes, effects, and solutions to California's air

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20

1 pollution problems. This research provides a scientific  
2 basis for defining air quality standards that are  
3 protective of public health, developing plans to meet  
4 these standards, and meet climate change goals.  
5 The annual plan focuses on ongoing regulatory and policy  
6 priorities, including development of State Implementation  
7 Plans and developing measures to support AB 32.

8

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DR. FISCHER: Before presenting proposed projects, I'd like to offer a high level overview of our research planning process.

12

The process begins with a broad solicitation to researchers and stakeholders. Then ARB conducts three levels of review to ensure that our research portfolio is non-duplicative, connects with co-funding and opportunities for collaboration, and addresses issues critical to the Board's decision-making and long-term planning.

19

The first level of review involves technical experts from ARB staff as well as State, federal, and private institutions.

22

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DR. FISCHER: Technical review teams identified research gaps that are critical to ARB's mission.

25

Identification of critical gaps early in the planning

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21

1 process helps ARB target its funds to niche areas that are  
2 of particular importance to California and that ARB is  
3 especially well-suited to address. Technical review teams  
4 scored the full set of 317 submissions for responsiveness  
5 to these gaps and for technical merit.

6

--o0o--

7

DR. FISCHER: The technical review teams include  
8 members from air districts, State agencies, federal  
9 agencies, and research funding organizations, such as the  
10 Coordinating Research Council and the Health Effects  
11 Institute. Their involvement helps ARB avoid duplicative  
12 research and identify opportunities to leverage funds.

13

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DR. FISCHER: The highest scoring proposal from  
15 the technical review teams went to the second stage of the  
16 review process.

17

Members of the Executive Office selected a  
18 sub-set of concepts based on policy priorities and  
19 available funding.

20

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DR. FISCHER: Finally, the Research Screening  
22 Committee reviewed the full package of concepts and  
23 approved the draft plan's portfolio, which includes 21  
24 concepts recommended for funding.

25

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DR. FISCHER: Approval by the Research Screening  
2 Committee is legislatively required before any projects

3 can be taken to the Board. The Committee consists of  
4 national experts --

5 --o0o--

6 DR. FISCHER: -- among a broad range of academic  
7 disciplines.

8 An additional layer of inter-agency coordination  
9 operates through the Climate Action Team. Last year,  
10 repeated requests from the Board as well as legislative  
11 developments prompted ARB to initiate efforts to foster  
12 inter-agency coordination of climate change research and  
13 development in California. These efforts culminated in  
14 formation of a Climate Action Team research sub-group in  
15 June 2008. Headed by Energy Commissioner Jim Boyd, this  
16 sub-group is charged with the task of facilitating  
17 sustained coordination of the State's research efforts.  
18 Its first major product was an overview of the State's  
19 climate change research portfolio, which was included in  
20 the CAT report that was released in spring 2009.

21 This summer, the research sub-group resumed  
22 activities to support priorities on which agencies reached  
23 consensus. This fall, the sub-group envisions the first  
24 periodic inter-agency exchange on climate-related  
25 projects.

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DR. FISCHER: Last year, we secured more than 13 million in co-funding in leverage for planned research. This usually high co-funding reflected the opportunity to collaborate with the National Oceanic and Atmospheric Administration for a set of studies that would otherwise not be possible.

This year, we will continue collaboration with NOAA and have identified prospects for co-funding from several other entities, including the South Coast Air Quality Management District.

ARB has negotiated extremely low overhead rates with California's universities to ensure that our funds are used for actual research rather than administration.

--o0o--

DR. FISCHER: The annual plan supports Board priorities related to health effects and exposure, climate change, and SIP support. Recognizing the air quality challenges posed by a changing climate, several projects investigate issues at the nexus of climate and air quality. These projects will help ARB successfully control conventional air pollutants in a warmer climate, while meeting climate change emission reduction goals.

Additionally, several projects in the proposed portfolio address issues related to agriculture and

1 environmental justice. After presenting a breakdown of  
2 funding allocations for each primary research category,  
3 I'll describe the objectives and portfolio projects  
4 recommended for funding.

5 --o0o--

6 DR. FISCHER: The fiscal year 2009-2010 budget  
7 will support \$5.3 million of research, an additional 21  
8 projects recommended for funding. The research plan  
9 identifies 15 projects to consider if more funding becomes  
10 available.

11 --o0o--

12 DR. FISCHER: ARB's proposed research in the area  
13 of health effects and exposures compliments extensive  
14 federal efforts as well as those at the Health Effects  
15 Institute, which probe multi-pollutant exposures and  
16 effects and the toxicity of particles from diesel engines.  
17 The research proposed by ARB will fill gaps related to  
18 mechanisms of particle related health impacts and air  
19 pollution exposures from automobile traffic in California.

20 --o0o--

21 DR. FISCHER: The first two studies offered for  
22 funding in the area of health effects support ARB's  
23 responsibility to set ambient air quality standards that  
24 are protective of human health.

25 A study of health effects of central valley PM

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25

1 will shed light on mechanisms associated with  
2 cardiovascular and pulmonary end points.

3           The second study, which makes use of a larger  
4 research effort involving humans with coronary artery  
5 disease, will probe the role of PM in inflammation.

6           The next study follows up on ARB's regulatory  
7 initiative to control indoor ozone emissions from portable  
8 air cleaning devices by determining whether a companion  
9 regulation is needed to control ozone from devices that  
10 are located in ducts.

11           The last two studies supporting health effects in  
12 exposure research are related to diesel emissions, ports,  
13 and community exposures. Emission from heavy-duty diesel  
14 trucks will be investigated to assess the impacts from  
15 ARB's truck and bus rule.

16                                 --oOo--

17           DR. FISCHER: And, finally, as presented in a  
18 future health update, significant exposures to air  
19 pollution can occur near freeways, especially during early  
20 morning hours. Investigation of the pollution gradients  
21 near freeways and ports will support assessment of how  
22 community exposures are impacted by traffic and port  
23 activities and how regulations to control emissions are  
24 effecting these exposures.

□

1 DR. FISCHER: ARB's proposed research to support  
2 the development of State Implementation Plan compliments  
3 and leverages work of the National Center for Atmospheric  
4 Research, U.S. EPA, and the South Coast Air Quality  
5 Management District.

6 --o0o--

7 DR. FISCHER: The first two studies fill gaps  
8 critical to inventories of biological emissions and  
9 cost-effective control of ozone. Determining nitric oxide  
10 emissions from California's agricultural soils is needed  
11 to help inform efforts in the San Joaquin Valley where  
12 ozone concentration exceeds State standards more than 120  
13 days per year. Validating California's biogenic emissions  
14 inventory is crucial to understanding how emissions  
15 reductions from a variety of sources will effect  
16 concentrations of ozone and PM and the state.

17 The next pair of studies address various types of  
18 particulate air pollution and their sources. The first  
19 study will help us understand how emissions from motor  
20 vehicles contribute to primary particles as well as  
21 secondary partical formation.

22 --o0o--

23 DR. FISCHER: Next, a study to improve our  
24 understanding of primary and secondary particles will help  
25 us identify contributors to the carbon-containing fraction

□

27

1 of PM2.5 which can account for 20 to 90 percent of PM2.5  
2 in urban and rural areas. Study results will help ARB  
3 develop cost-effective controls to protect public health.

4 --o0o--

5 DR. FISCHER: ARB's proposed climate change  
6 research portfolio compliments the comprehensive climate  
7 change science and technology programs administered by the  
8 federal government, as well as the work of approximately  
9 40 national laboratories in California and climate action  
10 programs funded by the State. The projects we propose  
11 will address California-specific knowledge gaps in the  
12 areas of emissions and mitigation, long-range planning to  
13 meet our 2050 goal, and behavioral change.

14 --o0o--

15 DR. FISCHER: The first project will narrow  
16 uncertainties associated with economic impacts projections  
17 and delineate what is needed to improve economic models  
18 that support development of cost-effective greenhouse gas  
19 emission control strategies.

20           Since behavioral change strategies will play a  
21 crucial control in helping California meet its long-term  
22 as well as near-term climate goals, one project will look  
23 to low energy consuming households for strategies and  
24 concrete examples of how Californians live with much less  
25 energy. Findings from the next study could dramatically

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28

1 enhance the State's ability to leverage both environments  
2 to achieve greenhouse gas emissions reductions delineated  
3 by the Scoping Plan.

4           --o0o--

5           DR. FISCHER: The final six projects support  
6 ARB's emissions inventory and mitigation efforts.  
7 Collaborative field research in the South Coast air basin  
8 will resolve spacial and temporal variations necessary to  
9 effectively control greenhouse gases and conventional air  
10 pollutants.

11           The next project will clarify uncertainties  
12 regarding black carbon's indirect climate impacts  
13 associated with clouds and support such strategies for  
14 mitigating climate change through black carbon emissions  
15 controls. Work funded by ARB will help and regional  
16 governments prioritize actions to reduce vehicle miles  
17 traveled, as required by SB 375.

18           The next project responds to the Scoping Plan  
19 which states that further research is needed to quantify  
20 greenhouse gas emissions reductions from green buildings.  
21 Improving the methane emissions inventory and verifying  
22 future methane emissions reductions in California will  
23 support important strategies for curbing the speed of  
24 climate change.

25   --o0o--

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29

1           DR. FISCHER: Finally, we will carry out research  
2 to measure baseline emissions of nitrous oxide from  
3 California's dairies. This work fills a long recognized  
4 gap in the State's nitrous oxide inventory and will  
5 leverage a number of ongoing efforts benefiting from  
6 shared protocols, sampling, and analytical equipment.

7   --o0o--

8           DR. FISCHER: Many of the same sources in  
9 inter-related atmospheric processes are responsible for  
10 greenhouse gas and conventional pollutant inventories in  
11 California.

12   --o0o--

13           DR. FISCHER: Recognizing that the nexus of  
14 climate change in air quality will become increasingly

15 important in a warming world, ARB will work with the  
16 National Oceanic and Atmospheric Administration to improve  
17 the emissions inventory as well as atmospheric science  
18 associated with greenhouse gases, particles, and ozone  
19 precursors. This multi-faceted field study will  
20 facilitate better air quality modeling, control  
21 strategies, and planning. With NOAA's costs estimated at  
22 more than \$12.7 million, ARB's contribution to the study  
23 will leverage State funds by more than four to one.

24 Three projects are proposed to take advantage of  
25 the unique CalNEX 2010 field study. These projects will

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30

1 help the State predict and plan for air pollution, clarify  
2 the nature and sources of secondary particulate matter  
3 that may play a role in climate change and help us  
4 identify which particles are responsible for the most  
5 long-ranging climate and health effects.

6 --o0o--

7 DR. FISCHER: Research sponsored by the Board is  
8 crucial to our mission. The projects in this plan  
9 strongly support ARB's responsibilities. We recommend  
10 that you approve the planned air pollution research for  
11 fiscal year 2009-2010.

12 --o0o--



13 DR. FISCHER: Thank you for your attention. We  
14 would be happy to answer any questions.

15 ACTING CHAIRPERSON RIORDAN: Thank you very much.  
16 Board members, are there any questions for staff?  
17 Yes, Mayor Loveridge.

18 BOARD MEMBER LOVERIDGE: One, an observation and  
19 I guess second a question.

20 The observation is at least for elected  
21 officials, the research on the impact on freeways is  
22 really exceptionally important. There is no best practice  
23 I can identify. I don't know of any kind of piece of  
24 literature that one can have that one can distribute to  
25 one's colleagues on different elected bodies. And I just

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1 think it is very important, because all kinds of land use  
2 decisions are being made and things are being sited near  
3 freeways. And we do not have very good guidelines or  
4 research guidance. So just an observation.

5 The question I have, which is I think more one  
6 that I'd like, James, if you could respond to is the area  
7 called economic planning. I agree with that. But it  
8 seems to me that a major part of this current discussion  
9 is really an economic discussion about the costs and

10 benefits. And I did not see that direction in the  
11 research. I think for this, for CARB, and for the State  
12 and for the political discourse and dialogue, it would be  
13 helpful to have some more framing and more systematic  
14 analysis of costs and benefits of the efforts of --  
15 particularly of AB 32 and climate change rules and  
16 regulations. So I just -- that is an emphasis I didn't  
17 see there that it seems to me one should at least  
18 consider.

19 EXECUTIVE OFFICER GOLDSTENE: I think it's true  
20 that for the most part the research that we've done is  
21 very focused on traditional types of research, but the  
22 research that asks the kinds of challenging questions that  
23 we grapple with here at the Board usually on a scientific  
24 or engineering basis. And we have not focused on general  
25 economic studies, per se.

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1 However, every rule that we bring to the Board  
2 for consideration has a thorough economic analysis, and we  
3 do -- on AB 32, we do now have the Economic Advisory  
4 Committee and Allocation Committee that's giving us  
5 specific advice on AB 32. And they've been meeting  
6 regularly and will be reporting to the Board later this  
7 year or early next year as we conduct ongoing analysis of

8 the impacts of AB 32 in addition to the specific economic  
9 impacts of every rule.

10 But your point is well taken.

11 BOARD MEMBER LOVERIDGE: Cumulative particularly.

12 EXECUTIVE OFFICER GOLDSTENE: I understand. I  
13 think that's a very important point.

14 RESEARCH DIVISION CHIEF CROES: This is Bart  
15 Croes. I'd like to add onto James' remarks.

16 So there is one project in the plan to evaluate  
17 existing economic tools. And then there are two  
18 economists on the Research Screening Committee, Charles  
19 Colestat from U.C. Santa Barbara and Matt Conn from UCLA.  
20 And they've made the same observations that they'd like to  
21 see more research on developing new economic tools. We're  
22 working with them to put together a seminar conference  
23 with other academics to see what further research could be  
24 done in this area. So we hope to bring some additional  
25 projects to the Board in the near future on this topic.

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1 EXECUTIVE OFFICER GOLDSTENE: Thank you, Bart.

2 ACTING CHAIRPERSON RIORDAN: Ms. Berg.

3 BOARD MEMBER BERG: Thank you.

4 There was one public comment I thought if staff

5 could comment on the public comment from Nevada County  
6 asking to be included in the SIP portion of the biogenic  
7 emissions or how that particular research will also help  
8 in their issue.

9 RESEARCH DIVISION CHIEF CROES: I'm sorry, we  
10 haven't seen the comment. But, yes, we would certainly be  
11 willing to work with any other group on collaborative  
12 research in this area.

13 BOARD MEMBER BERG: Thank you very much.

14 ACTING CHAIRPERSON RIORDAN: Thank you. Yes,  
15 Dr. Sperling.

16 BOARD MEMBER SPERLING: I would like to commend  
17 the staff. I think the group of projects and the thrust  
18 of these is excellent, moving in the right direction. I  
19 like the idea of further collaboration/interaction with  
20 other agencies and other funding sources. And I do  
21 support the thought about the economic -- more of a focus  
22 on the economics.

23 But I have a little idea, and I know staff is  
24 having cutbacks and so on and so forth. But, you know,  
25 you put a researcher on here and they start coming up with

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1 new ideas. But just a simple little idea is a lot of the  
2 reports that are being done now tend to be synthesis

3 reports and would be very valuable to a lot of people.  
4 And I think we might be able to do a better job of  
5 disseminating the findings, maybe even creating a  
6 publication series for some of the reports that are --  
7 that have a broader application and would have a broader  
8 interest.

9           You know, some of these, when you start talking  
10 about time resolve measurements of PM2.5, they're very  
11 scientific, but there are others that are not. And I  
12 think there might be a lot of value to that, as we move  
13 into the AB 32 arena where there's so much question and  
14 uncertainty and controversy, that would be a valuable role  
15 we could play.

16           RESEARCH DIVISION CHIEF CROES: This is Bart  
17 Croes again.

18           Professor Sperling, I totally agree with you. We  
19 do do these public seminars that we webcast, and we do  
20 require the researchers to do peer research publications  
21 so it has a longer lasting effect.

22           But I agree; we could do more to disseminate the  
23 final reports, and we'll try to do that.

24           BOARD MEMBER SPERLING: It was just a simple idea  
25 that maybe on the website there be a publication series.

□

1 RESEARCH DIVISION CHIEF CROES: We do have that.  
2 We do put publications on the website. But we probably  
3 could do a better job advertising.

4 BOARD MEMBER SPERLING: And clustered in terms of  
5 synthesized reports, as opposed to all the scientific  
6 ones, which most of us wouldn't have a clue what they  
7 mean.

8 EXECUTIVE OFFICER GOLDSTENE: Professor Sperling,  
9 by "synthesis," you mean something that pulls it all  
10 together and makes policy suggestions or -- just want to  
11 make sure I'm clear and I understand what you mean when  
12 you're using "synthesis."

13 BOARD MEMBER SPERLING: Synthesis means that more  
14 than a handful of people will understand it.

15 EXECUTIVE OFFICER GOLDSTENE: Our communications  
16 director is an expert at that, so we'll make sure he works  
17 with the Research Division. We all think this is a good  
18 idea and we should try to do more of this.

19 BOARD MEMBER SPERLING: There is in a sense two  
20 groups of research reports that both have their own  
21 audience and value. I'm just focusing on that one group  
22 that has a broader audience and value.

23 ACTING CHAIRPERSON RIORDAN: It seems to me many  
24 years ago we used to do that. We used to publish some of  
25 the research at the end of a study. It's been a long

1 time.

2 EXECUTIVE OFFICER GOLDSTENE: We'll look back to  
3 the past.

4 ACTING CHAIRPERSON RIORDAN: Moving right along,  
5 we have a number of speakers who wish to speak -- sorry,  
6 Dr. Telles.

7 BOARD MEMBER TELLES: One other comment on that.  
8 In Professor Sperling's suggestion, I notice a lot of  
9 these research projects are site-specific, San Joaquin  
10 Valley or L.A. basin. And I would suggest also that, once  
11 a project is completed, that a report be sent to those  
12 prospective air districts just for their own information.  
13 Because being on an air district, oftentimes there's  
14 something going on in the area and you don't even know  
15 about it. So it would just tie in some communication  
16 also.

17 ACTING CHAIRPERSON RIORDAN: Good idea.

18 EXECUTIVE OFFICER GOLDSTENE: That's a very good  
19 idea.

20 ACTING CHAIRPERSON RIORDAN: Thank you.

21 For our speakers, Steve Weitekamp, you're our  
22 first speaker, if you'd come down to the microphone,  
23 followed by Bryan Bloom and Lee Brown.

24 MR. WEITEKAMP: Good morning, Commissioners. My  
25 name is Steve Weitekamp. And I'm the President of

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1 California Moving and Storage Association. And I  
2 represent impacted industry.

3 CSMA has a membership of about 550  
4 California-based businesses. And they are confused,  
5 fearful, angry of the impact of the on-road diesel truck  
6 rule and regulations and their ability to continue to do  
7 business in the state of California.

8 And my reason for being here this morning is to  
9 be a part of a panel that represents diverse business and  
10 scientific interests that are concerned with the current  
11 CARB research process. The hallmark of CARB has been  
12 pushing forward research and rules to clean the air of  
13 California with concern for the economic impact on  
14 businesses within the state. Historically, CARB has done  
15 a professional and credible job in fulfilling this  
16 mission.

17 Currently, we are concerned that things have  
18 changed and that there are issues of which the Board may  
19 not even be aware of. I ask that the Board revisit the  
20 scientific research that is the basis for the on-road  
21 diesel truck rule and that they take an active role in  
22 this revised study.

23 I'm going to now defer to the other members of  
24 our panel. Thank you.



25 ACTING CHAIRPERSON RIORDAN: Thank you, Steve.

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1 Bryan Bloom.

2 If this is kind of a coordinated group, what I'll  
3 do is everybody will have their opportunity to speak, and  
4 then we will have staff response and some questions by  
5 Board, if that would be all right with the Board members.  
6 Okay. Bryan.

7 MR. BLOOM: Madam Chairman, members of the Board,  
8 thank you for allowing me to speak. Forgive me if I refer  
9 to my notes as I speak.

10 Like the others, the importance of research as  
11 the underpinning of the resulting rules has a direct and  
12 economic impact to my and other businesses like mine.

13 My name is Bryan Bloom. I do own a company  
14 called Priority Moving in San Diego, California. I'm a  
15 bit unique in that I also hold a degree in economics and  
16 chemistry from UCSD and a Masters MBA from Berkeley. So I  
17 think I have a little bit of a better understanding of the  
18 research science behind the rules and the ability to  
19 comprehend them and the impacts of the regulations.

20 Also, the current on-road diesel rules negatively  
21 and severely impact my business and thousands of other

22 businesses like mine. In a very short time, my trucks  
23 won't be legal.

24 We've looked at some other options. I can't  
25 afford to purchase a million dollars of trucks to replace

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1 perfectly good trucks. Financing isn't available.  
2 Everyone is aware of the liquidity market, the current  
3 state of the California economy. Even if I could afford  
4 the trucks, I can't afford the debt service. So we're  
5 stuck in a very tenuous terrible situation.

6 Retrofitting is not an option at this point.  
7 We've looked at that. Someone else is going to speak on  
8 that. The technology isn't available, the cost is high --  
9 and it only gives us a very short time beyond that.

10 In addition, no grant money is available for  
11 companies like mine. So this leaves me and many thousands  
12 of businesses looking at just closing my operation,  
13 letting my 50 employees go and the hundreds of thousands  
14 of dollars multiplied by the thousands of businesses  
15 leaving California.

16 Two more points, in I may. Please understand,  
17 the current regulations and the research that was done to  
18 support them lumped the model or the engine year into one  
19 bucket. However, the research, we feel, did not look at

20 the fact that there really are two industries. There's  
21 the high mileage and the low mileage. The high mileage  
22 are the trucks that are on the road daily. The low  
23 mileage are the ones like mine and other industries that  
24 go to the job sites, do the job, and come back.

25 We feel and ask the Board to do further research

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1 and get involved with the three following things:

2 We feel that the low-mileage trucks, 30,000 miles  
3 or less, should be exempted from this rule based on the  
4 fact they emit much less amount of diesel particulate.

5 Secondly, we need these rules delayed so we can  
6 react to the economy.

7 And last, the implementation of the rules pushed  
8 out.

9 This is the only way we're going to have a chance  
10 to survive.

11 The very last thing I want to do -- I apologize,  
12 Madam Chairman. I have 16 seconds, but I want to put  
13 something up that was brought to our attention and has  
14 demoralized us. And I'm not sure if the Board is aware of  
15 it, and I'm not sure if the press is aware of it, but I  
16 don't think the Board members are aware of it. I hate to

17 bring it up, but the fact is the lead scientist on the  
18 study that was --

19 ACTING CHAIRPERSON RIORDAN: Bryan, excuse me.  
20 You're going to have make this your last sentence.

21 MR. BLOOM: Okay. I would like this passed  
22 around to the Board so they can see that the lead  
23 scientist that did this study on the rule you voted on was  
24 convicted by CARB of dishonesty and fraud and that further  
25 research needs to be done and that study needs to be

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1 revisited. That document is right there.

2 ACTING CHAIRPERSON RIORDAN: Thank you. We'll  
3 give that to the Board. Thank you.

4 Lee Brown, followed by James Enstrom, followed by  
5 John Reed.

6 MR. BROWN: Good morning, Board members.

7 My name is Lee Brown. I'm the Executive Director  
8 of California Dump Truck Owners Association. Been in this  
9 position for ten years.

10 I'm taking off where Bryan left off here  
11 basically is that, you know, our members are very confused  
12 about these rules and the funding. And why I want to tie  
13 this together as far as this research is that I read this  
14 on the CARB website. It says, and I'm going to quote this

15 with emphasis, "The program has and continues to sponsor  
16 relevant research of the highest scientific quality that  
17 accordingly serves as the foundation for effective  
18 regulatory decisions."

19           You know, the foundation for the on-road and  
20 off-road diesel engine rule, that study was done by Mr.  
21 Tran who was the project coordinator and lead author and  
22 basically lied about his credentials. I think it  
23 compromises that entire report. And I think what I'm  
24 asking from in this budget is a redo of that report. I  
25 think that should be done over because of the fraud that

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1 has been discovered here.

2           So that is very important to our industry and the  
3 livelihood of many of our members. I think it's very  
4 important as part of this budget that you reconsider that.

5           And I also noticed that there were approximately  
6 36 proposed studies. In those proposed studies, only one  
7 dealt with economic issues. I think it's -- in the  
8 economy that we face today, that is so important. I think  
9 that you need to spend -- and focus more time on looking  
10 into the economic impact of these rules to all the  
11 businesses in California that they effect. Thank you.

12 ACTING CHAIRPERSON RIORDAN: Thank you very much.

13 James Enstrom, followed by John Reed.

14 MR. ENSTROM: Thank you very much for letting me  
15 speak.

16 My name is James Enstrom, a Professor at UCLA. I  
17 have been conducting epidemiologic studies for the last 36  
18 years.

19 I'd like to raise a couple of epidemiologic  
20 points about the planned air pollution research. And  
21 quoting a sentence from the first proposal that you have,  
22 health effects of central valley particulate matter, it  
23 says, "air quality standards for particulate matter are  
24 based on epidemiologic studies that cannot demonstrate  
25 causality and current understanding of the biological

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1 basis for epidemiologic associations is incomplete."

2 While I find this a very important sentence and  
3 it amplifies upon submissions that I've made to the Board  
4 along with a dozen other scientists during the past year  
5 and a half emphasizing the need for a more complete  
6 understanding of the epidemiologic evidence relating  
7 particulate matter to premature deaths in the state of  
8 California and I think this is an essential aspect of the  
9 research program that you have, and there should be more

10 emphasis on this.

11           There have been a number of disturbing  
12 developments since I made a presentation to a number of  
13 Board members personally last December. It's been  
14 uncovered now that the scientific review panel on toxic  
15 air contaminants has not had a legally appointed  
16 epidemiologist since 1994. This includes the time period  
17 in 1998 when diesel particulate matter was declared a  
18 toxic air contaminant.

19           Also, I have had great difficulty dealing with  
20 the epidemiologists that the Board relies on and the staff  
21 relies on, persons like Professor Michael Garret at U.C.  
22 Berkeley and Professor Arden Pope at BYU. Myself and a  
23 number of other scientists have tried to deal with these  
24 professors and determine current evidence on the  
25 relationship between fine particulate air pollution and

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1 mortality, and we've been basically stonewalled and  
2 treated very unprofessionally. And I think it's up to the  
3 Board to exert more supervision on some of these issues  
4 that deal with such important economic issues, and I hope  
5 you'll do so.

6           If this it not done by the Board, then persons

7 like myself and others are going to continue to press  
8 this, and we're going to re-educate the 38 million  
9 citizens of this wonderful state, because I firmly believe  
10 in honest science, and I expect it to come from the Air  
11 Resources Board. Thank you.

12           ACTING CHAIRPERSON RIORDAN: Thank you.

13           Dr. Reed.

14           DR. REED: Good morning, Board. I'm Dr. John  
15 Reed, a practicing physician in San Diego. Earlier in my  
16 life, I was also an analyst with the Office of Disease  
17 Prevention and Health Promotion under C. Edward Koop where  
18 I worked quite a bit with the Office of Technology  
19 Assessment to look at the health effects of emerging  
20 technologies.

21           As my practice as an anesthesiologist, I'm sort  
22 of a one-man wrecking ball for the environment. I pump  
23 out nitrous oxide and volatile organics all the time.  
24 It's in my personal interest to try to find other ways to  
25 clean up the environment so that my grandchildren can have

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1 an environment they can inherit.

2           I'd like to go a littler further on what  
3 Dr. Sperling has to say. You have research that is  
4 subject to scientific standards, and it has to be



5 publishable. But by the time that stuff gets to you  
6 folks, it's been synthesized. And what you get is not up  
7 to that sort of standard.

8           The study these folks are talking about that  
9 effects a lot of people in this state was run by a person  
10 who told ARB what it wanted to hear in order for that  
11 person to get their job. That person was in charge of  
12 what actually physically got in front of you. So can you  
13 trust that that person really gave you something other  
14 than what he thought you wanted to hear?

15           So my suggestion, to go along with  
16 Dr. Sperling's, is that when you get synthesized reports  
17 that they are held to the same scientific standard that I  
18 was held to when I presented to Congress, when I presented  
19 to C. Everet Koop, anybody else who makes powerful  
20 decisions that affect people's lives.

21           On to what Mayor Loveridge said. Economics make  
22 a big difference in people's lives. When you look at your  
23 own vulnerable population study from 2005, what does it  
24 show? It shows one thing over and over again that it can  
25 actually point to as there being a strong correlation.

□

1 There are strong negative health effects to negative

2 socio-economic status.

3           Right now, we are making decisions. You're  
4 making decisions that have major socio-economic impacts.  
5 When we take away jobs, we definitely have negative health  
6 effects. I would suggest that we're looking now at doing  
7 retrospective. We've passed legislation. We've passed  
8 regulations. Let's retrospectively look at what the  
9 economic impact was. Let's look at what the wrecking ball  
10 was. Let's look at the damage backwards. Let's not do  
11 that.

12           Why don't you put a self-imposed moratorium on  
13 any further regulation until we have the economic impacts  
14 studies, until we really know how many children are going  
15 to fall below the poverty level, how many more incidents  
16 of asthma in a life are going to be caused. Not from  
17 particulate matter, we don't know. But we know if those  
18 folks fall below a certain socioeconomic status, we're  
19 going to see higher incidences of asthma.

20           Thank you.

21           ACTING CHAIRPERSON RIORDAN: Thank you, Dr. Reed.

22           William Davis, followed by the last speaker,  
23 Michael Lewis.

24           MR. DAVIS: Good morning, Madam Chairman and  
25 members of the Board.

□

1           This is the twelfth time in the past three years  
2 I've had the honor and privilege of visiting with you.  
3 And over that time, I've acquired a really deep respect  
4 for your service and your commitment and for your  
5 willingness to listen to reason.

6           We have had conversations on the portable  
7 regulation that led to changes. I don't know if any of  
8 you remember Amber Parsons in that group, but that was a  
9 powerful improvement for our industry.

10           We had conversations about the impact of the  
11 off-road and on-road rules on the crane industry. And you  
12 all made changes based on that.

13           We had conversations just a month or so ago in  
14 San Diego about the changes required by the State  
15 Legislature. And we appreciated your actions in following  
16 that legislative directive.

17           Today, I'd like to talk about what our industry  
18 sees as a serious deficiency in the research package  
19 that's before you, and as you may have heard already, a  
20 serious dearth of research on economic impacts on the  
21 regulations. Until you come up with a research package on  
22 this topic, I'd like to commend to you and your staff a  
23 study that was released Monday by the California Small  
24 Business Administration. This study was commissioned by  
25 an act in the Legislature, a bill was signed by the

1 Governor. And the study was prepared by the leading  
2 academics at Cal State Sacramento to determine what the  
3 regulatory cost burden is for California. What they  
4 discovered was \$492 billion a year. That translates into  
5 an enormous burden on business and on individuals. The  
6 individual cost in California is over \$4,000 a year just  
7 from regulatory cost. That does not, by the way, include  
8 the cost of the off-road, on-road, or greenhouse gas  
9 regulations, because this is based on data from 2007.

10           While your actions as a Board are not the only  
11 basis for regulatory costs in the state, we have a super  
12 number of regulatory agencies here. We do ask that you  
13 become more conscious of these costs, more conscious of  
14 the decisions that you make, and their effect on the  
15 environment of the economy of California.

16           Thank you all very much.

17           ACTING CHAIRPERSON RIORDAN: Thank you.

18           Michael Lewis.

19           MR. LEWIS: Good morning, Madam Chairman and  
20 members of the Board. My name is Mike Lewis. I'm here on  
21 behalf of the Construction Industry Air Quality Coalition.

22           I want to take this opportunity of this planned  
23 research item to call to your attention to the growing  
24 concern in the regulated community about the objectivity  
25 and the transparency of the CARB regulatory and research

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49

1 activities.

2           As I'm sure you're all aware, there have been  
3 questions raised in the recent months about the  
4 thoroughness of your economic analysis of the greenhouse  
5 gas efforts, the academic qualifications of at least one  
6 of your staff, and concerns raised about some of the  
7 modeling used in some of your regulatory actions.  
8 Certainly, for those of us in the construction industry,  
9 it has been frustrating to see what appears to be an  
10 unstoppable conveyor belt process of orchestrated  
11 research, staff analysis, modeling, rule development, and  
12 adoption that lacks significant opportunity for input for  
13 anyone not on the Agency payroll, appointed by the Agency,  
14 or employed by a sister public agency.

15           It would appear from the report today you're  
16 undertaking another \$5 million worth of effort that will  
17 lead to an inevitable conclusion with little opportunity  
18 for dissension or discussion of research that contradicts  
19 the conclusions of the agency-funded work. All of this  
20 work is part of a continuum that will ultimately lead to  
21 actions by your Board that will impact some or every  
22 aspect of society in this state.

23           All of this work should be subject to the same

24 review, public input, and discussion as the decisions made  
25 by your Board. But the current process allows little

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1 opportunity for that, except at the Board meeting, which  
2 is frankly too late.

3           Given the wide and costly impacts of the  
4 decisions now being made by your Board, it is no longer  
5 adequate to simply accept staff-generated research or  
6 analysis by itself as a suitable foundation for the  
7 decisions being made by your Board. There needs to be  
8 more transparency, independent oversight, and some process  
9 for consideration of other research that may contradict  
10 the conclusions of your own funded work.

11           For example, we were very frustrated in the  
12 off-road rule by how long it took to get access to the  
13 staff emissions model and the impacts that we used to  
14 generate the model. When we did, we discovered it was  
15 written in an extinct computer language, that it took as  
16 long as 24 hours to run after modifying the inputs. We  
17 simply had to hire our own experts and write our own  
18 model. And there wasn't -- we weren't the only ones who  
19 did it. But everything was very last minute and there was  
20 very little time to really understand how it worked.

21           Here we are today, two-and-a-half years after the

22 adoption of the rule, and we're still learning about the  
23 assumptions used in the model and how they worked and how  
24 inaccurate some of them were. Had we known at the time --  
25 and there was no reason not to know, other than this false

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51

1 urgency about adopting a rule. It could have been a very  
2 different rule if given a little extra time to get it  
3 right.

4 I think you owe us a more thorough and thoughtful  
5 process that isn't driven by artificial deadlines to get  
6 it done rather than to get it right. You need to start at  
7 the very first step, which is the research. Given the  
8 importance of the decisions that lay ahead and the  
9 credibility of your own agency, you're not going to have  
10 the luxury anymore of having it done in a vacuum without  
11 some outside oversight and review. You need to establish  
12 a process sooner rather than later. It needs to be  
13 rigorous. It needs to be open. It needs to be above  
14 reproach.

15 ACTING CHAIRPERSON RIORDAN: Mr. Lewis.

16 MR. LEWIS: And it needs ample opportunity for  
17 dissension and comment. Thank you.

18 ACTING CHAIRPERSON RIORDAN: Thank you.

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

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

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1 the peer review and process we went through on that.

2           RESEARCH DIVISION CHIEF CROES: Good morning.

3           I'll address two issues.

4           One is the peer review of the research itself.

5 So as you know, you have the legislatively required  
6 Research Screening Committee, which consists of respected  
7 academics from the University of California system, from  
8 private colleges, and people from some funding  
9 organizations like U.S. EPA, the South Coast AQMD, and the  
10 Coordinating Research Council, which is the research arm  
11 of the auto and oil industry. And basically this research  
12 plan, every proposal has to go through this committee  
13 before it can come to the Board. So this is an oversight  
14 committee, not an advisory committee. If they reject the  
15 research plan or the proposal, we would never be able to  
16 take it to you. And they also review the final report.



17 So we consider that a very strong peer review.

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

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

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

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

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

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

25                   In addition, Chairman Nichols asked us to reach

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

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

12 rigorous peer review.

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

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

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

8           ACTING CHAIRPERSON RIORDAN: Okay. Any other

9 comments?

10 Dr. Telles and then Dr. Balmes.

11 BOARD MEMBER TELLES: I also believe that staff  
12 does an excellent job.

13 But this is the first time I've actually been  
14 apprised that there was fraud in the organization here.  
15 And I feel that as a Board member that's kind of a -- I  
16 should have been aware of this. There should have been a  
17 report sent to Board members.

18 I find that a little bit incredible. I think  
19 there's nothing that's more discrediting to an  
20 organization than to have a person that has a fraudulent  
21 credential. And it's going to be very difficult to  
22 explain that to the public, as it is to these people here.

23 And I would like a written report of this. In my  
24 world, if an article was published by somebody who didn't  
25 have a Ph.D. and said he had a Ph.D., the whole thing

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56

1 would be nixed, despite all the things you're talking  
2 about. I just find it incredible.

3 ACTING CHAIRPERSON RIORDAN: Thank you.

4 Dr. Balmes.

5 BOARD MEMBER BALMES: Yes. I would also echo  
6 Dr. Sperling's praise for the relative transparency of the

7 agency. Certainly compared to most other governmental  
8 agencies, there's more transparency and more outreach to  
9 the public than I've seen in other agencies. And I think  
10 that CARB tries to base its decisions on quality research.

11 That said, I also agree that academic fraud is a  
12 serious issue and should be brought into the light of day.  
13 So I agree with Dr. Telles on that.

14 But I also want to agree with the speakers with  
15 regard to the need for more economic analysis. I don't  
16 think -- I think the Board is trying to move in that  
17 direction, as Bart Croes indicated, by appointing two  
18 economists to the Research Screening Committee, but I  
19 think there's no question that we have to do more in terms  
20 of economic research with regard to the impacts of our  
21 regulations.

22 ACTING CHAIRPERSON RIORDAN: Ms. Berg.

23 BOARD MEMBER BERG: I think the scientific basis  
24 of a good debate on good science is very important. But I  
25 think the overarching issue from these group of people

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57

1 again goes back to the on-road and off-road rule and where  
2 we are economically. And I do think that we need to  
3 figure out the economic benefits that are a result of this

4 unfortunate recession and figure out how that should play  
5 in so that we really understand and can help industry move  
6 forward.

7 I think the continued misinformation is driving  
8 people to be more uncomfortable and much more stressed in  
9 this very difficult economic situation that adds to a lack  
10 of clarity. And I think it's incumbent on our agency and  
11 specifically however that we can help to bring clarity as  
12 to expectation and how we're going to move these  
13 particular two rules forward because of the magnitude of  
14 the rule and how many people it affects. So however I can  
15 help on that.

16 I'm personally involved. I have 17 trucks that  
17 are also going through the process. And so the science is  
18 one issue, but I think the heart of the issue is really  
19 these two particular rules and the overarching how many  
20 people are involved and so how we can be even more  
21 diligent in implementation I think is really important.  
22 Thank you.

23 ACTING CHAIRPERSON RIORDAN: Mr. Goldstene.

24 EXECUTIVE OFFICER GOLDSTENE: Tom is going to  
25 respond to Ms. Berg's comment.

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1 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: I think

2 since those two rules have been passed, the economic  
3 impacts of the rules and the economy in general have been  
4 a major part of what we've been trying to deal with and  
5 address. And we're coming back to the Board in December,  
6 for example, in the truck rule at your direction. And one  
7 of the main issues there is how does that rule interact  
8 with the economy and impacts on individual firms.

9           So we are trying to do that. We're trying to  
10 elevate the amount of attention put into the economic  
11 impacts of these rules. And we'll try to keep you  
12 informed in the upcoming meetings on both the on- and  
13 off-road rules.

14           ACTING CHAIRPERSON RIORDAN: And I very much  
15 appreciate that.

16           And now that we have a new Ombudsman, and one of  
17 my first comments to her was, this is in my opinion a very  
18 important facet of outreach that we need to do to get and  
19 collect good information about how it is affecting people.

20           And I agree, Ms. Berg, with your analysis. Yes,  
21 the speakers are certainly concerned about research, but  
22 the underlying issue truly is probably more the economic  
23 effect of rules that we have done research for and come to  
24 some conclusion about the regulation that follows.

25           There is another research component to this which

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1 I would just -- I heard I think Dr. Enstrom say that we  
2 don't have an epidemiologist on this Board. I don't know,  
3 having limited background, whether or not that is a  
4 significant issue. But maybe what we ought to do is the  
5 next time we have an opportunity as an opening on this  
6 panel to have an epidemiologist. I don't know. I can't  
7 remember if there's one there or not. Dr. Balmes may  
8 know. I'm not sure.

9 RESEARCH DIVISION CHIEF CROES: Yes, we do have  
10 an epidemiologist on the Research Screening Committee

11 ACTING CHAIRPERSON RIORDAN: All right. I feel  
12 comfortable. Thank you very much.

13 Board members, I think we do need to move  
14 forward. We appreciate the comments that have been made  
15 by our speakers. But I think it's time to now move to the  
16 next part of business, which is there is a resolution  
17 before you. You've had an opportunity to read it, I hope,  
18 with the Board Item. Is there a motion?

19 BOARD MEMBER D'ADAMO: So moved.

20 ACTING CHAIRPERSON RIORDAN: Move to adopt the  
21 resolution. This is 09-48. Is there a motion for second?

22 BOARD MEMBER BALMES: Second.

23 ACTING CHAIRPERSON RIORDAN: All those in favor  
24 please signify by saying aye.

25 (Ayes)



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1           ACTING CHAIRPERSON RIORDAN: Opposed, no.

2           Motion carries.

3           We are going to move to our next item of  
4 business. That is Agenda Item 9-8-4. This is adoption of  
5 the proposed amendment to the California consumer products  
6 regulations. The proposed amendments would reduce  
7 volatile organic compound emissions and prevent the use of  
8 certain toxic air contaminants in compounds with a high  
9 global warming potential in the reformulations.

10           The volatile organic compound emissions  
11 reductions that would be achieved by these amendments are  
12 a significant step toward meeting the consumer products  
13 commitment in the State Implementation Plan for ozone.

14           And while the staff is changing seats there, Mr.  
15 Goldstene, I'll call on you.

16           (Thereupon Board Member Berg exited the  
17 proceedings.)

18           EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam  
19 Chair.

20           Staff is proposing amendments that will affect  
21 three consumer product categories: Double phase aerosol  
22 air fresheners, multi-purpose solvents, and paint  
23 thinners. Multi-purpose solvents and paint thinners  
24 together are the largest emitting consumer products  
25 category. This proposal would achieve more than 95

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1 percent emissions reductions from these products.

2           We are also proposing to prohibit the use of  
3 compounds with a global warming potential value above 150  
4 in all three categories and certain chlorinated toxic air  
5 contaminants in multi-purpose solvents and paint thinners.  
6 The staff's proposal, if adopted, will achieve emission  
7 reductions of about 14.7 tons of VOCs per day when our  
8 limits are in place.

9           The calculations of emissions reductions for  
10 multi-purpose solvents and paint thinners do not include  
11 those that would occur in the South Coast Air Quality  
12 Management District, because the district has a rule in  
13 place for these categories.

14           In June of 2008, the Board approved amendments to  
15 the consumer products regulation. At that time, the Board  
16 directed us to evaluate potential emissions reductions  
17 from cleaning products, such as general purpose cleaners,  
18 degreasers, and glass cleaners. Shortly, you'll receive  
19 an update in staff's presentation of our progress in  
20 evaluating potential adverse impacts of reducing emissions  
21 from these categories and our goal to propose additional  
22 VOC limits next year.

23           Ms. Trish Johnson of our Stationary Source

24 Division will start the staff presentation. Trish.  
25 (Thereupon an overhead presentation was

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1 presented as follows.)

2 MS. JOHNSON: Thank you, Mr. Goldstene.

3 Madam Chair Riordan and members of the Board,  
4 today we are proposing for your consideration amendments  
5 to the California consumer products regulation.

6 --o0o--

7 MS. JOHNSON: My presentation will follow this  
8 outline. I'll begin with a brief background.

9 --o0o--

10 MS. JOHNSON: Consumer products are defined in  
11 state law as chemically formulated products used by  
12 household and institutional consumers. Examples of  
13 consumer products are listed on this slide.

14 --o0o--

15 MS. JOHNSON: State law requires ARB to achieve  
16 the maximum feasible reductions in volatile organic  
17 compounds, or VOCs, from consumer products. The  
18 regulations must be technologically and commercially  
19 feasible and preserve product forms.

20 The 2007 statewide strategy, or SIP, contains a

21 30 to 40 tons per day VOC reduction target from consumer  
22 products.

23 --o0o--

24 MS. JOHNSON: The table on this slide shows our  
25 progress towards meeting the consumer products target in

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1 the 2007 SIP.

2 As you can see, the proposal before you today  
3 represents an important step towards meeting our 30 to 40  
4 tons per day target.

5 We are also evaluating setting lower VOC limits  
6 for cleaning product categories, which I will discuss  
7 later in the presentation.

8 In 2010, we plan to propose lower VOC limits for  
9 several cleaning product categories where we expect to  
10 achieve five to eight tons per day reductions.

11 Additionally, in 2011, we will bring to you a  
12 proposal to achieve the remaining reductions needed to  
13 meet the 2014 goal.

14 This concludes the background discussion. I'll  
15 now move on to our proposed amendments.

16 --o0o--

17 MS. JOHNSON: This slide shows the categories  
18 proposed for regulation along with a description of the

19 products. It should be noted that although multi-purpose  
20 solvents and paint thinners are shown as distinct  
21 categories, in practice, they are used interchangeably and  
22 are found together on store shelves.

23 VOC emissions would be reduced by approximately  
24 14.7 tons per day when the limits are fully effective.  
25 Earlier this year, the South Coast Air Quality Management

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1 District adopted VOC limits for consumer paint thinners  
2 and multi-purpose solvents. The reductions shown here do  
3 not include those that would occur in the South Coast Air  
4 District.

5 The reductions the South Coast AQMD achieved with  
6 the adoption of their limits was projected and factored  
7 into their air quality management plan. Therefore, our 30  
8 to 40 tons per day target was not effected.

9 For the rest of this presentation, I will refer  
10 to multi-purpose solvents and paint thinners as thinners  
11 and solvents.

12 --o0o--

13 MS. JOHNSON: The proposed amendments were  
14 developed with extensive public participation.

15 The first step in developing the proposed

16 amendments was conducting surveys to obtain consumer  
17 product sales and formulation data. In 2007, we initially  
18 proposed VOC limits for thinners and solvents based on  
19 data from ARB's 2003 consumer and commercial products  
20 survey.

21 At that time, stakeholders indicated that the  
22 market for these products had changed significantly and  
23 the 2003 data were no longer representative of current  
24 products.

25 Therefore, in 2008, we conducted a survey update

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1 and collected updated sales data along with information  
2 regarding new technologies. The data we collected showed  
3 new technologies had been introduced into these  
4 categories.

5 Data from the 2006 consumer and commercial  
6 products survey were used for the double phase aerosol air  
7 freshener proposal.

8 We also conducted two public workshops and  
9 participated in numerous individual meetings and  
10 teleconferences.

11 --oOo--

12 MS. JOHNSON: On this slide are the category's  
13 proposed COC limits and effective dates subject to today's

14 rulemaking.

15           A VOC limit of 25 percent by weight is currently  
16 in effect for double phase aerosol air fresheners. We are  
17 proposing to lower the VOC limit to 20 percent by weight.

18           I'd like to talk briefly about the two tiers of  
19 new VOC limits we are proposing for thinners and solvents.  
20 As shown on the slide, we are proposing the same limits  
21 and effective dates. While the first tier limit of 30  
22 percent would become effective next year, the proposed  
23 second tier, 2013 effective date, would allow  
24 manufacturers the necessary time to develop and market  
25 lower-emitting, less flammable, or less costly

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1 technologies.

2           We intend to monitor manufacturer's reformulation  
3 progress by requiring detailed written updates in 2012 on  
4 research and development efforts to comply with the three  
5 percent VOC standard. We intend to use the data to  
6 conduct a technical assessment, which I will discuss later  
7 in the presentation.

8           The South Coast AQMD adopted limits similar to  
9 those we are proposing today, but with earlier effective  
10 dates. Upon adoption of the proposed statewide limits,

11 manufacturers would be required to meet both ARB's and the  
12 South Coast AQMD's requirements for products sold in the  
13 South Coast Air District. Products meeting the South  
14 Coast limits will meet our proposed statewide limits.

15 --o0o--

16 MS. JOHNSON: Although no use of solvents with  
17 high global warming potentials were reported, we are  
18 proposing a global warming potential limit of 150 for all  
19 three categories. This proposal would ensure there is no  
20 increase in greenhouse gas emissions as products are  
21 reformulated to meet the proposed VOC limits.

22 --o0o--

23 MS. JOHNSON: The proposal specific to thinners  
24 and solvents are shown here.

25 As shown on this slide, we are proposing to

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1 prohibit the use of three toxic air contaminants in 2010.

2 We are also proposing an aromatic VOC limit of  
3 one percent by weight. This will minimize the use of  
4 highly reactive aromatic compounds, such as toluene and  
5 xylenes, in reformulated products. To enforce this  
6 provision, upon notification from ARB, manufacturers would  
7 be required to supply reformulation data within ten  
8 working days to direct our compliance testing.



9           We have proposed two labeling provisions. The  
10 first would require manufacturers to display the VOC  
11 content in percent by weight as determined from actual  
12 formulation data.

13           Our second labeling provision would address  
14 public safety concerns that have been raised regarding the  
15 flammability of some low VOC thinners and solvents. One  
16 reformulation option is to use ingredients that will  
17 result in flammable or extremely flammable rated products.  
18 Consumers may generally not be familiar with thinners and  
19 solvents that have these flammability ratings. As  
20 proposed, if a product is reformulated to have a flammable  
21 or extremely flammable rating, then manufacturers will  
22 need to comply with specific labeling requirements to  
23 inform consumers of the change.

24           The proposed special reporting requirements would  
25 provide the data necessary to conduct a technical

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68

1 assessment prior to the future technology-forcing three  
2 percent VOC limit. In the assessment, we intend to  
3 evaluate the impacts of implementing the three percent by  
4 weight VOC limit and the one percent by weight aromatic  
5 VOC limit. In addition, we will evaluate whether a



4 products that are currently available for sale. This  
5 change does not impact VOC emissions from this category.

6 Finally, we are proposing to clarify language in  
7 method 310 that explains procedures used to test products  
8 with low VOC or high water content.

9 This concludes the overview of our proposed  
10 amendments. In the next two slides, I'll discuss the  
11 economic and environmental impacts of our proposal.

12 --o0o--

13 MS. JOHNSON: Because of the large VOC emissions  
14 reductions that would be achieved, the cost-effectiveness  
15 of this proposal is better than other consumer products'  
16 rulemakings. However, manufacturing costs may increase,  
17 depending on the pathway chosen, to comply with the second  
18 tier VOC limits for thinners and solvents. We believe  
19 businesses will pass on, at least some of the compliance  
20 costs, to consumers in order to maintain profit margins.

21 The slide shows the estimated costs per year  
22 increase to consumers if manufacturing costs are passed  
23 on.

24 We found the cost per year increase for double  
25 phase aerosol air fresheners would be negligible and about

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1 \$1.50 for thinner and solvents purchased by consumers.

2 We also estimated an \$8 cost per year increase  
3 for licensed contractors who purchase approximately five  
4 gallons of these products per year.

5 Next, I'll discuss environmental impacts.

6 --o0o--

7 MS. JOHNSON: The proposal would have overall  
8 positive impacts on the environment by reducing about 14.7  
9 tons of VOC emissions per day when all the limits become  
10 effective in 2013. Approximately 14 percent of the  
11 reductions would be achieved by the proposed lower VOC  
12 limit for double phase aerosol air fresheners, and the  
13 remaining 86 percent would be achieved from the limits for  
14 thinners and solvents, excluding the South Coast Air  
15 District.

16 Prohibiting the use of chlorinated toxic air  
17 contaminants will prevent the public's exposure to certain  
18 carcinogens. In addition, the aromatic VOC limit would  
19 prevent the use of highly reactive ingredients and would  
20 likely result in additional ozone reductions.

21 Finally, the labeling requirement would educate  
22 consumers about a potential change in formulation.

23 This proposal, along with the proposed mitigation  
24 measures, will not result in any significant adverse  
25 impacts.

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73

1 should have an earlier effective date. We believe the  
2 proposed effective date of December 31, 2013, is  
3 necessary, because it has not been demonstrated that low  
4 VOC products available today in commerce adequately thin  
5 all types of coatings. The additional time is also needed  
6 to develop less flammable and/or less costly product  
7 technologies that may also provide greater ozone  
8 reductions.

9           You may also hear that the one percent aromatic  
10 VOC limit should be removed. We believe the one percent  
11 aromatic limit is necessary to ensure the expected air  
12 quality benefits are realized. If products are  
13 reformulated using highly reactive aromatic hydrocarbon  
14 solvents, such products could negate much of the  
15 proposal's benefits. Therefore, as a mitigation measure,  
16 we are proposing to limit the amount of aromatic solvents  
17 used in the product's final formulation to one percent by  
18 weight. While this proposal does remove one potential  
19 reformulation option, other technologically feasible  
20 options are available.

21           Some stakeholders may comment that you should  
22 adopt reactivity-based standards, rather than the proposed

23 mass-based VOC limits for thinners and solvents. ARB  
24 pioneered the use of reactivity in regulations and  
25 believes it is an effective ozone control strategy.

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74

1 However, as a first step, we believe our proposal for  
2 mass-based VOC limits, coupled with the aromatic compound  
3 limit, is the best regulatory approach for these high  
4 solvent categories.

5 As a second step, we will evaluate a  
6 reactivity-based approach as part of the 2012 technical  
7 assessment mentioned previously.

8 We also note that South Coast AQMD earlier  
9 adopted mass-based limits for these categories. In light  
10 of this, we believe it is prudent to adopt mass-based  
11 limits as well to provide statewide consistency.

12 This concludes our summary of comments. Next  
13 I'll describe ongoing work for future regulatory action.

14 --o0o--

15 MS. JOHNSON: We are in the process of evaluating  
16 VOC and air toxic reduction strategies for cleaning  
17 product categories, dry clean only spot removers, and  
18 paint removers or strippers.

19 We are consulting with staff from the Office of  
20 Environmental Health Hazard Assessment and the State Water



21 Resources Control Board regarding potential adverse  
22 impacts from the predicted formulation of products that  
23 would comply with proposed lower VOC limits. Upon  
24 completion of our assessment and public review of our  
25 findings, our goal is to propose to the Board further

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1 amendments in late 2010.

2           We are also evaluating other consumer products  
3 categories for potential reductions to fully meet the  
4 consumer products SIP target by 2014.

5           Concerns have been raised regarding impacts from  
6 the use of several toxic compounds in nail coating  
7 products used at nail salons. We are working on an  
8 evaluation to determine if the use of these products in  
9 nail salons impacts nearby communities.

10                                 --o0o--

11           MS. JOHNSON: In conclusion, we recommend that  
12 you adopt the proposed amendments with the modification  
13 described today.

14           We'd be happy to answer any questions you may  
15 have.

16           ACTING CHAIRPERSON RIORDAN: Board members, are  
17 there any questions on this item at this time?

18 CHIEF COUNSEL PETER: Madam Chair, this is Ellen  
19 Peter, Chief Counsel.

20 I just wanted to, for the record, reflect that  
21 Board Member Sandra Berg left at the beginning of Mr.  
22 Goldstene's presentation. She's recusing herself from  
23 this item, but she didn't want to disrupt the presentation  
24 of Mr. Goldstene or staff. And I told her I would put  
25 this on the record, that she left immediately.

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76

1 ACTING CHAIRPERSON RIORDAN: Thank you very much.  
2 So she will be gone for this item. And I appreciate that.

3 Yes, Ms. D'Adamo.

4 BOARD MEMBER D'ADAMO: I'm assuming it goes  
5 without saying, but on the ongoing work that you mentioned  
6 on the nail coatings and exposure to the community, I'm  
7 assuming there is a focus on the workers in those nail  
8 salons.

9 MR. MALLORY: Actually, the focus is on outdoor  
10 exposure to nearby residents. Worker exposure is under  
11 the jurisdiction of the Office of Safety -- and OSHA,  
12 Cal/OSHA.

13 BOARD MEMBER D'ADAMO: Are we doing anything to  
14 coordinate with OSHA? That's an area that concerns me.

15 MR. MALLORY: Yes. We have met with them, along

16 with the communities groups, and discussed the  
17 jurisdictional issues and met with them several times,  
18 yes.

19 BOARD MEMBER D'ADAMO: And we're focusing for  
20 today on the aerosol air fresheners. But I'm just curious  
21 about all these products that seem to be more and more  
22 popular, the plug-ins and oils, aroma therapy sort of oils  
23 that are also used as air fresheners. Is staff evaluating  
24 the air quality impacts of those other items?

25 MR. MALLORY: Most of those products already have

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77

1 VOC content limits that effect those. And we have  
2 recently surveyed those, so we have up-to-date  
3 information, and we are considering further reductions  
4 from some of those categories.

5 BOARD MEMBER D'ADAMO: Thank you.

6 ACTING CHAIRPERSON RIORDAN: Any other questions  
7 before we begin? All right.

8 We have a number of speakers. And so let's see  
9 how organized we can be. A number of you are  
10 professionals. So I know you are aware that both of the  
11 microphones, you're able to use those.

12 So let me begin by inviting down Joseph Yost and

13 followed by Doug Fratz, Gregory Johnson, Elena Rodriguez,  
14 Sheila Nem, Luis Cabrales. Why don't that group just come  
15 down to this front row and be ready to take the microphone  
16 in order as I call you.

17 So Mr. Yost.

18 MR. YOST: Thank you, Ms. Riordan.

19 Good morning, Madam Chair, members of the Board,  
20 ARB staff.

21 My name is Joseph Yost. I'm Director of  
22 Strategic Issues Advocacy for the Consumer Specialty  
23 Products Association.

24 CSPA is a voluntary nonprofit trade association  
25 representing approximately 240 companies that manufacture,

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78

1 formulate, distribute, and sell a broad range of products  
2 for household and commercial use.

3 During the past 20 years, CSPA companies spent  
4 many hundreds of millions of dollars to reformulate our  
5 products to comply with ARB's strict standards to improve  
6 air quality in California while maintaining our industry's  
7 ability to sell effective products that consumers can rely  
8 upon to contribute positively to the health, safety, and  
9 quality of life.

10 As an initial matter, CSPA commends the ARB

11 staff's concerted efforts to ensure that all interested  
12 parties had an opportunity to participate in an open and  
13 transparent public effort to develop this proposed  
14 regulation. CSPA appreciates the opportunity to work  
15 cooperatively with ARB staff, environmental groups, air  
16 districts, and other stakeholders on this important and  
17 very challenging rulemaking process.

18           The proposed limit for air fresheners presents  
19 very significant technological challenges for product  
20 manufacturers. This will be the third time that ARB has  
21 established a regulatory standard for this broad category.  
22 The current standard in place was in effect less than five  
23 years ago. Completing the necessary manufacturing stage  
24 gates of researching, developing, and engineering new  
25 product formulations will require approximately three

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79

1 years before new technologies can be introduced as viable  
2 products in the marketplace.

3           Moreover, I'd like to stress this is not a  
4 monolithic group of products. A large number of different  
5 scents and product sizes adds to the difficulty of  
6 reformulating products in this category. Although the  
7 proposed VOC limit is an aggressive technology-forcing

8 standard as evidenced by the ARB's survey, which states  
9 that more than 99 percent of the current products will  
10 have to be reformulated, CSPA member companies commit to  
11 initiate actions necessary to reformulate this broad range  
12 of products to meet the new limit by the proposed  
13 effective date. We hope that this new limit will prove  
14 feasible in the time allowed for compliance. However,  
15 CSPA member companies have yet to identify technologies to  
16 be able to meet this new standard. Therefore, we request  
17 ARB staff to work with us to re-evaluate this limit in the  
18 future if it proves to be technologically and commercially  
19 infeasible.

20 Thank you for the opportunity to comment on this  
21 important rulemaking. Going forward, CSPA agrees with ARB  
22 staff that the serious challenges of improving  
23 California's air quality will require new and innovative  
24 thinking. Accordingly, CSPA will continue to work  
25 cooperatively with ARB staff, air districts, and

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80

1 environmental groups and other stakeholders to develop and  
2 identify appropriate new approaches for implementing ARB  
3 statutory mandate to protect the health and safety of  
4 California residents and the environment.

5 Thank you very much.

6           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
7 And I can assure you, as you well know, staff will work  
8 with you.

9           MR. YOST: Yes, ma'am. Thank you.

10          ACTING CHAIRPERSON RIORDAN: Yes.

11          MR. FRATZ: Thank you, Madam Chair, Board  
12 members.

13                I'm D. Douglas Fratz, Vice President of  
14 Scientific and Technical Affairs at the Consumer Specialty  
15 Products Association. We represent, as Mr. Yost said, the  
16 consumer products industry and a broad representation of  
17 that industry.

18                We submitted written comments. And what I would  
19 like to do is to emphasize the very high importance for  
20 the solvents and thinner products of moving expeditiously  
21 toward development of reactivity-based standards for these  
22 products to replace the mass-based standards that I expect  
23 you will adopt today and similar standards that have been  
24 adopted earlier by the South Coast District.

25                Adopting -- it would be very possible and

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81

1 advantageous for these products -- these standards to be  
2 replaced by equivalent -- ozone equivalent reactivity

3 based standards.

4           Now, many of the problems that you're going to  
5 hear about today from the paint and coatings industry in  
6 particular have to do with the adverse side effects of  
7 these mass-based standards. Certainly the flammability  
8 safety, certainly the need to apply an aromatic reduction  
9 on top of the VOC reduction and the limit options for  
10 product technology that are created by the mass-based  
11 standard. All of these problems could be solved by going  
12 to a reactivity-based standard, the same ozone impact  
13 while giving better flexibility and product technology.

14           This would also solve a problem that we see  
15 involving having two different standards overlay each  
16 other in the South Coast District and slightly different  
17 standards in the state as compared to this district.

18           It's not appropriate to wait until 2012 to do  
19 this after the standards are already in effect and already  
20 causing the problems that need to be avoided. It would be  
21 better to go expeditiously and try to resolve this problem  
22 next year. Thanks.

23           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
24 I'll make a note of that. Maybe staff would comment on  
25 that.

□



1 Mr. Johnson.

2 MR. JOHNSON: Hi. Good morning. My name is  
3 Gregory Johnson. I'm here representing the  
4 Sherwin-Williams Diversified Brands.

5 I would like to address one section of the  
6 proposed rule, and that is the multi-purpose solvents and  
7 paint thinners.

8 First, the three percent limit being proposed is  
9 simply not a viable limit. Lowering the mass percent in a  
10 product category is much like lowering the speed limit on  
11 a freeway. There may be some safety advantages and some  
12 fuel economy benefits, but they will come at a cost in  
13 productivity. And at a certain point, it just doesn't  
14 make sense any more to keep lowering the speed limit.

15 Imagine highway 60 out here with a three mile an  
16 hour speed limit. Probably be the safest highway on the  
17 planet, but I can't believe anybody would use it. And I  
18 would bet that you would agree with me that's not an  
19 appropriate limit for that highway.

20 I've spoken to several chemists about this  
21 category who have worked with these kind of products, and  
22 they've assured me sort of a similar thing. They've said  
23 that a three percent limit in this category will cause an  
24 extreme loss of functionality, and many of the current  
25 uses and applications will no longer be viable.

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1           But even as onerous as the three percent limit  
2 is, the real issue here with this category is the proposal  
3 to limit aromatics to one percent. On the surface, this  
4 doesn't seem like a big thing, but the premise and the  
5 precedence that it set will be enormous. The aromatics  
6 proposal was put in to limit reactivity in the category.  
7 As a regulatory strategy, combining mass-based and  
8 reactivity strategies in a single category is devastating  
9 to innovation in that category.

10           The method proposed by the staff of restricting  
11 an entire class of chemicals to accomplish this is even  
12 more devastating. If it's allowed to go through, the  
13 message that will circulate tomorrow morning is that  
14 California is now restricting aromatics. This will have a  
15 detrimental effect on any development of aromatic  
16 technology. And in some cases, it will come to a  
17 screeching halt.

18           The definition for the aromatics that has been  
19 proposed is also too broad. It will encompass thousands  
20 of chemicals, many of which really shouldn't even be  
21 considered, many of which also have low reactivity. It's  
22 sort of self-defeating. It's like killing an ant with a  
23 sledge hammer.

24           Also, it would be difficult to enforce, because  
25 there's no test for aromatics. And one thing, it will

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84

1 incorporate extreme complexity onto the development side  
2 of the equation. There's no list of aromatics that we can  
3 plug into a computer and tell chemists not to use.  
4 They'll have to look at every single compound's molecular  
5 formula and look for these aromatic rings or similar  
6 structures. And so it will be extremely difficult on that  
7 side.

8 Thank you.

9 ACTING CHAIRPERSON RIORDAN: Thank you very much.  
10 Elena Rodriguez.

11 MR. CABRALES: Madam Chair, I'm Luis Cabrales.  
12 I'm going to translate Elena's testimony to English.

13 ACTING CHAIRPERSON RIORDAN: That would be fine.

14 MS. RODRIGUEZ: Good morning. My name is Elena  
15 Rodriguez. I'm here from Long Beach Alliance for Children  
16 with Asthma. Thank you very much for allowing me to  
17 express my concerns and offer my suggestion.

18 I work cleaning homes for three years, and I saw  
19 an impact of using toxic chemicals on me -- and continue  
20 to affect our community. That is why we're asking CARB to  
21 adopt staff's proposal to reduce the percentage of  
22 emissions of VOCs in paint thinners and multi-purpose  
23 solvents down to three percent.

24 Many of our community already suffer

25 disproportionately the impacts of outdoor air pollution.

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85

1 And by reducing VOCs from these products, we will at least  
2 see safer indoor air quality.

3           VOCs are dangerous emissions that cause nausea,  
4 memory impairment, asthma attacks, eye irritation,  
5 irritation of the breathing apparatus, cancer, lung  
6 damage, kidney damage, and damage to the nervous system.  
7 Unfortunately, children who are the most vulnerable are  
8 the ones who also have health problems.

9           We urge CARB to change the timeline and move it  
10 to 2012, closer to rule 1143, shortening the deadline for  
11 these emissions.

12           ACTING CHAIRPERSON RIORDAN: Because we've had  
13 the translation, we'll give you another minute. But we  
14 need to get to the conclusion.

15           MS. RODRIQUEZ: These regulations will help ARB  
16 achieve its SIP commitments and will save much of the  
17 resources that are already in shortage. We want ARB to  
18 support this regulation and establish emission limits that  
19 won't effect air quality, but specifically public health.

20           Thank you.

21           ACTING CHAIRPERSON RIORDAN: Thank you very much.

22           And Luis, while you're here, let me just take you

23 in order, and then I'll come back to Sheila Nem.

24 MR. CABRALES: Yes. And I will probably be back  
25 to translate for two or three more speakers.

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86

1 Thank you very much, Madam Chairman.

2 My name is Luis Cabrales. I'm Senior Campaign  
3 Associate at Coalition for Clean Air.

4 Coalition for Clean Air has been working with ARB  
5 and South Coast AQMD staff in moving forward these  
6 regulations in an effort to reduce VOC emissions from  
7 consumer products.

8 We have introduced comments on behalf of almost  
9 50 statewide local and national organizations. And these  
10 organizations represent several hundred thousand  
11 California consumers and workers. All of our comments are  
12 obviously on support of these regulation. And, in fact,  
13 we would like to see it strengthened by moving the  
14 deadline for solvents from 2013 to 2012 and make it closer  
15 to AQMD's rule 1143.

16 I would like to address one of the comments that  
17 industry just made, and it has to do with their concerns  
18 about the potential financial impact or productivity  
19 impact of these regulation. The way we see it -- and by

20 looking at the broad support that these regulations has  
21 from both consumers and workers, we completely disagree  
22 that these regulations will end this industry as we know  
23 it.

24           In fact, the way we see it, we see it as  
25 potentially increasing green jobs in California by

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87

1 encouraging diversity of technology and resources. And so  
2 that's why we are very hopeful about this regulation. Not  
3 just because of the potential air quality benefits, but  
4 also the economic benefits to the State. By changing the  
5 formulation of these products and making them safer to  
6 both consumers and workers, I'm sure Californians will not  
7 stop using air fresheners. We will not stop using  
8 solvents or paint thinners. I think we are going to be  
9 seeing a standard across the board. So why fear these  
10 regulations?

11           We are very encouraged by the potential benefits  
12 and hope that you will support staff and also encourage  
13 staff to change the deadline for achieving these VOC  
14 reductions.

15           Thank you very much.

16           ACTING CHAIRPERSON RIORDAN: Thank you very much.

17           Sheila, please come forward.

18           And while you're coming forward, let me invite  
19 Chet Thompson, Dave Laucella, Doug Raymond, and Eileen  
20 Moyer, and Dave Darling to come up to the front row to be  
21 ready to speak.

22           Sheila.

23           MS. NEM: Good morning, ladies and gentlemen of  
24 the Board. My name is Sheila, and I'm an undergraduate  
25 student at the University of California Los Angeles and

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88

1 campaign intern at the Coalition for Clean Air.

2           I'd like to speak to you today on behalf of  
3 (inaudible) Sandoval, a janitor from Norwalk, California.  
4 I will be reading from a letter addressed to Chairman  
5 Nichols from Ms. Sandoval.

6           Ms. Sandoval would like to thank your agency  
7 staff for your efforts to reduce emissions of VOCs,  
8 volatile organic compounds, and protecting the health of  
9 workers like her.

10           She's a janitor who has been cleaning  
11 supermarkets for more than 15 years, in addition to being  
12 a concerned parent and consumer. She would like to  
13 encourage the staff to continue working hard to reduce  
14 more toxic chemicals from products like multi-purpose

15 solvents and paint thinners.

16           She's very committed to her job and would like to  
17 continue to work hard to keep these supermarkets clean and  
18 open every day. However, on a daily basis, she has to use  
19 harsh chemicals to clean the store. These chemicals and  
20 cleaning products cause a lot of damage, oftentimes  
21 corroding her shoes and clothes. She and her coworkers  
22 constantly get headaches, nose bleeds, eye irritation, and  
23 burns on their hands. Some janitors have developed asthma  
24 and other breathing problems.

25           She would like to strongly encourage you to

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89

1 support your staff by setting the VOC limit to three  
2 percent and asks you to move implementation date for  
3 multi-purpose solvents to 2012.

4           Many products on the market already emit only  
5 three percent of VOCs. She believes by moving the date  
6 for multi-purpose solvents, ARB will reduce the health  
7 impacts associated with the misuse of these products at  
8 these workplaces.

9           Finally, I would like to remind you that janitors  
10 like Ms. Sandoval are waiting for a strong regulation of  
11 janitorial product and would like to remind your staff  
12 they need to include them in the 2010 consumer products



13 regulation. The regulation of janitorial products is very  
14 important protection to this line of work.

15 Again, thank you for your commitment.

16 ACTING CHAIRPERSON RIORDAN: Thank you very much  
17 for being here.

18 Chet Thompson.

19 MR. THOMPSON: Good morning, Madam Chair, Board.

20 My name is Chet Thompson here representing the  
21 solvents industry group of the American Chemistry Council.

22 First, we'd like to stress that SIG supports  
23 CARB's goal of continued improvements in air quality  
24 through effective and efficient regulation of VOCs in  
25 consumer products, and we stand ready to help.

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90

1 We also commend CARB staff. They are true  
2 professionals and have been a pleasure to work with.

3 However, we cannot support this proposal for a  
4 number of reasons. And we ask that the Board table this  
5 proposal or at least Tier 2 of the proposal.

6 First, SIG strongly supports the adoption of  
7 reactivity-based standards either as the sole or at least  
8 an alternative compliance option for paint thinners and  
9 multi-purpose solvents. Research and research done by the

10 state of California shows definitively that  
11 reactivity-based standards more effectively reduce  
12 ozone-forming potential solvents while providing  
13 formulators with needed flexibility. The proposed  
14 mass-based approach and stark contrast is outdated,  
15 needlessly rigid, and potentially counterproductive. If  
16 the Board adopts this proposal, they will be missing a  
17 good opportunity.

18 CARB's proposed aromatics prohibition is  
19 arbitrary and capacious. The proposed standard is  
20 essentially a reactivity-based provision grafted onto a  
21 conventional mass-based approach. If CARB is going to  
22 rely on activity concepts, it ought to do it to its  
23 entirety. CARB's selective use of reactivity unfairly  
24 serves only to make the mass-based approach more onerous  
25 and denies formulators needed flexibility.

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91

1 Importantly, CARB has not met its legal burden of  
2 demonstrating that its proposed regulations are  
3 commercially and technically feasible and necessary. For  
4 example, CARB staff itself states that the three percent  
5 Tier 2 standards has "not been demonstrated for paint  
6 thinners" and the impacts for which cannot be "fully  
7 assessed" until more information is obtained.

8 CARB simply can't move forward with this  
9 regulation until it has been shown to be technically  
10 feasible.

11 We ask that you at least postpone Tier 2 until  
12 CARB can complete its assessment that it's committed to do  
13 by 2012.

14 Finally, we're concerned the proposal would  
15 likely result in the formulation of products that pose a  
16 higher fire risk to consumers. CARB itself in this very  
17 room was sufficiently concerned about this issue that it  
18 solicited the impact of the Office of the State Fire  
19 Marshal on South Coast rule 1143 and submitted comments on  
20 the specific issue to CARB in December 2008. Despite its  
21 express concerns, CARB has never the less proposed the  
22 same rule on a statewide basis.

23 Although SIG supports the rule's proposed  
24 notification and marketing requirements, we do not believe  
25 the CARB staff has demonstrated how those provisions would

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92

1 alleviate the undoubted increase in safety risk.

2 We thank you for this opportunity and look  
3 forward to working with CARB staff.

4 ACTING CHAIRPERSON RIORDAN: Thank you very much.

5           Next speaker is Mr. Laucella. I'm probably not  
6 producing that correctly.

7           MR. LAUCELLA: Actually, you are. You're one of  
8 the few. I'm Dave Laucella from Shell Chemical Company,  
9 also representing the ACC Solvents Industry Group.

10           I wanted to echo what Chet has previously said,  
11 that we have worked well with CARB through this whole  
12 rulemaking process, and we definitely support the idea of  
13 a multi-purpose solvent thinner rule. We just don't  
14 support the approach that's currently being taken. And  
15 we're asking the Board here in these comments to take a  
16 step back in the rulemaking and give staff more time to  
17 help work with industry to answer some of these concerns.

18           I wanted to touch particularly on the aromatics  
19 prohibition, which is in our comments. And basically we  
20 feel these aromatics provisions are reactivity concepts  
21 attached onto a mass-based rule. And we take a little bit  
22 of exception and really question that CARB is using  
23 reactivity both on a higher reactivity end of the spectrum  
24 in this case and also on the lower reactivity end of the  
25 spectrum for exempting products, but will not adopt

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1 reactivity as an entire concept. And that's what industry  
2 has been promoting for quite some time. So we're asking

3 that you take the time to include reactivity at this  
4 point.

5           Contrary to what staff's comments were here, we  
6 are not proposing that reactivity should replace the mass  
7 approach. We've been proposing that it should be an  
8 alternate control plan, which is a concept that's very  
9 familiar to ARB and also to South Coast that an alternate  
10 control plan that would go alongside a mass-based  
11 approach. The people in industry could choose which one  
12 best suited them to meet the air quality objectives of the  
13 rule.

14           One of the other comments about the aromatics  
15 prohibition that we have quite a concern with is why CARB  
16 choose aromatics in particular, why they choose one  
17 percent. We don't feel that's been adequately  
18 demonstrated in the information they've provided to  
19 stakeholders. There are numerous compounds that have a  
20 higher reactivity to aromatics. That hasn't been  
21 adequately discussed openly. So there are a lot of  
22 questions as to why aromatics were chosen, one percent was  
23 chosen.

24           We do know aromatics represent a high reactivity,  
25 and that's why we propose a reactivity concept in there.

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1           We also just -- to switch to my second point on  
2 the commercially and technically feasible aspect, we  
3 really -- industry can't make an adequate determination of  
4 the commercially and technically feasible, because we  
5 haven't been provided detailed information from CARB's  
6 consumer products survey update. It was a very high level  
7 report that was given, but we need that before we can  
8 adequately go forward. So we ask for your consideration.  
9 Thank you.

10           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
11           Mr. Raymond.

12           MR. RAYMOND: Good morning, members of the Board,  
13 Madam Chair, and the ARB staff.

14           My name is Doug Raymond. I'm here representing  
15 WMBARR, a major supplier of multi-purpose solvents and  
16 paint thinners.

17           We've previously submitted comments on this  
18 issue. I'd like to start my comments with a thank you to  
19 the staff. We met with the staff on several occasions,  
20 supplied them with significant data. They were always  
21 professional and courteous.

22           We have several concerns today. Our first  
23 concern is the fire risk to the consumer. We have  
24 submitted a CD to the Board -- hopefully you got a chance  
25 to look at it -- that shows the increase in fire risk,

1 especially from the future three percent limit. The three  
2 percent limit will force us to use acetone. Acetone is an  
3 extremely flammable compound. And what will happen when  
4 it is added to paint will make the product an extremely  
5 flammable product which will increase the flammability  
6 risk to consumers.

7           Second, our concern is the lack of use of  
8 reactivity. You've heard from numerous people and even  
9 from ARB itself; you are a pioneer in the concept of  
10 reactivity. Your aerosol coating rule is now a national  
11 regulation. It was copied by EPA and effective this year.

12           Despite significant data that the ARB staff has,  
13 they neglected to adopt a reactivity reg. And as you've  
14 heard, too, they have kind of mixed the issue of mass and  
15 reactivity-based regulations. I don't believe that they  
16 can ensure their emission reductions with a mass-based  
17 regulation. And that's why they're putting in the  
18 reactivity.

19           What we would push for is an adoption of a  
20 reactivity reg, because then there would be no need for an  
21 aromatic restriction, which in itself has a host of  
22 problems, a couple that you've already heard. One is it's  
23 broadly defined. Second is it's going to impede our R&D.  
24 And third, it's just not a good precedence.

25           You've heard from several people today,

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96

1 Sherwin-Williams, the ACC, NPCA, and CSPA -- well, NPCA  
2 will be up -- we support their comments. We have a  
3 recommendation that you remove the three percent effective  
4 VOC limits, remove the aromatic restrictions, instruct the  
5 staff to develop a future reactivity regulation to be  
6 effective by 12/31/2013.

7 We'd like to thank you for the opportunity to  
8 comment. And we respectfully request that you instruct  
9 the staff to work on our recommendations.

10 Couple last comments that have come out. The  
11 South Coast Air Quality Management District when they did  
12 adopt their regulation, they instructed their staff to  
13 look at a reactivity regulation.

14 Thank you very much.

15 ACTING CHAIRPERSON RIORDAN: Thank you very much.

16 Eileen Moyer, when you're coming forward, let me  
17 tell the staff and the Board what I'm thinking. After  
18 David Darling's testimony, I'm thinking of taking a break  
19 for all of us and our court reporter for about ten  
20 minutes, coming back, and finishing the last seven or  
21 eight speakers that we have and then coming to a  
22 conclusion after that. So that's sort of what I'm  
23 thinking. We'll take a bit of a break in the middle of  
24 the speakers.



25 And that will leave Jim Stewart, Naveen Berry,

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97

1 Morgan Wyenn, Steve Bunting, Yolanda Chavez, Maria Lopez,  
2 Martha Cota, and Dr. Kathy Wolt. If you would come down  
3 to this front row and be ready when we get back from about  
4 a ten minute break, I would appreciate that. And we'll  
5 just get started again.

6 All right. Thank you, Eileen, for waiting for  
7 me.

8 MS. MOYER: No problem. Good morning, Madam  
9 Chair and members of the Board. Thank you for giving me  
10 this opportunity to speak to you today.

11 My name is Eileen Moyer. I'm Director of  
12 Regulatory Relations for Reckit Benckiser. Reckit  
13 Benckiser is a major manufacturer of household care  
14 products, including products like Air Wick air fresheners  
15 and Neutra Air air fresheners.

16 We have worked cooperatively with ARB staff for  
17 about 20 years now to develop lower VOC standards for  
18 consumer products. Virtually almost all of Reckit  
19 Benckiser's household care products already fall under one  
20 of those standards.

21 I'm here today specifically to speak about the

22 air freshener standard and to support the proposal that  
23 the ARB staff has put forward. We believe that the limit  
24 is feasible. It will take us some time. And our folks in  
25 the UK are actively working on reformulating our products

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98

1 at this time.

2 Thank you for your attention. And that's  
3 basically it.

4 ACTING CHAIRPERSON RIORDAN: Thank you. Straight  
5 to the point.

6 David Darling.

7 MR. DARLING: Good morning. I'm Dave Darling  
8 with the National Paint and Coatings Association.

9 We are concerned that this rule, the paint and  
10 multi-purpose solvents rule, will restrict the  
11 availability of effective paint thinners and multi-purpose  
12 solvents that are very important to our industry.

13 While CARB has attempted to mitigate the  
14 increased risk of fire hazards that result from the  
15 substitution of mineral spirits to acetone, we believe the  
16 risk still remains.

17 We're also concerned that fuel effective products  
18 exist today that will meet the three percent limit. And,  
19 therefore, we suggest ARB delete that three percent limit.

20           This problem is exacerbated by the fact the one  
21 percent aromatic restriction will further restrict  
22 alternatives to acetone. Therefore, we also recommend ARB  
23 remove the one percent restriction.

24           As others have mentioned today, we instead  
25 suggested ARB proceed forward immediately with a

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1 reactivity rule that would provide equivalent ozone  
2 reductions and will also provide the industry formulation  
3 flexibility. The 2012 technology assessment, which is  
4 good. Unfortunately, it probably will take too long -- in  
5 2012, it will take too long to come up with a reactivity  
6 rule at that time.

7           Finally, given the possible overlap with surface  
8 coating rules, we request staff work with industry to  
9 develop compliance materials to clarify regulatory  
10 language after the adoption of the rule.

11           Thank you.

12           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
13 Thank you for your testimony.

14           All right. Let us take a break. We will return  
15 at 25 after 11:00 and we will begin with Jim Stewart is  
16 making public presentation. Let's take our break.

17 (Thereupon a recess was taken  
18 from 11:11 a.m. to 11:28 a.m.)

19 ACTING CHAIRPERSON RIORDAN: Okay. Ladies and  
20 gentlemen, let's take our seats.

21 And Mr. Stewart.

22 MR. STEWART: Hi. I'm Jim Stewart, and I'm  
23 representing Sierra Club California, specifically Bill  
24 McGavern, who was very appreciative of the wonderful  
25 cooperation that your Board and your staff have provided

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100

1 to him and the other environmental community in this  
2 development of this.

3 We want to say as representing the 200,000  
4 members of Sierra Club in California, this is a great day.  
5 I mean to say is that you guys are really doing the right  
6 thing. To have a rule that has this four-part advantage  
7 of protecting the health of the consumers and the workers,  
8 it will improve our ambient air quality. You've ensured  
9 that there is no addition to global warming. And it's  
10 cost effective; a buck and a half per year, per family,  
11 eight dollars. Can you imagine what our painting  
12 contractors could think about? Here they are, breathing  
13 this awful stuff and getting sick. And for eight bucks a  
14 year they could not get sick anymore. Wouldn't that be

15 fabulous? You guys are just doing so great.

16           In fact, I also have to compliment the South  
17 Coast Air Quality Management District, because they've  
18 been blazing the trail for you. They led the way. And,  
19 in fact, maybe you want to have -- Chair Riordan, ask the  
20 Air Quality Management District, because they've faced the  
21 same kind industry opposition that you're hearing today  
22 and they dealt with it. And they're the experts. And if  
23 they -- I mean, you guys, surely your staff respects the  
24 wonderful staff of the South Coast Air Quality Management  
25 District. And let's get aware of their knowledge. Let's

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101

1 use that. Let's make sure that we are including that in  
2 this.

3           And then, finally, it seems to me that the South  
4 Coast has done the work and that they figured that it's  
5 easy to make this deadline by the end of 2012. Why are  
6 you delaying this to 2013? Let's move it up.

7           Thank you.

8           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
9 Believe it or not, South Coast is going to follow you.

10           Mr. Berry, if you'd come forward, please.

11           MR. BERRY: Good morning. My name is Naveen

12 Berry. I'm a Planning and Rules Manager with the South  
13 Coast Air Quality Management District.

14 The South Coast Air Quality Management District  
15 supports the proposal before you today and recognizes upon  
16 full implementation this proposed rule will significantly  
17 reduce VOC emissions throughout California.

18 As you heard from the staff, the South Coast  
19 Governing Board adopted a similar rule earlier this year,  
20 and we've been working actually very closely with CARB  
21 staff on this particular proposal. And they've been very  
22 helpful to us during our rule development cycle as well.

23 The South Coast staff also looks forward to  
24 working with CARB staff on the future amendments planned  
25 for next year, especially having to do with the general

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102

1 purpose cleaners as you heard people testify before you.

2 Otherwise, I want to thank you for the  
3 opportunity to provide these comments. Thank you.

4 ACTING CHAIRPERSON RIORDAN: Thank you very much.

5 Morgan Wyenn.

6 MS. WYENN: Hi. My name is Morgan Wyenn. I am  
7 here representing the Natural Resources Defense Council.

8 Thank you for this opportunity to testify on this  
9 matter.

10           I'm here today to support the adoption of the  
11 regulations to combat harmful emissions from consumer  
12 products. Reducing harmful VOC emissions is critical to  
13 meeting federal and State clean air standards and  
14 protecting public health. NRDC applauds CARB's efforts to  
15 reduce emissions of volatile organic compounds from  
16 consumer products. We urge CARB to adopt these  
17 regulations to better protect the health of consumers and  
18 workers.

19           VOCs are dangerous emissions that cause nausea,  
20 memory impairment, asthma attacks, eye and respiratory  
21 tract irritation, cancer, and damage the lungs, kidneys,  
22 and central nervous system.

23           We urge CARB to adopt a reduction in VOCs for  
24 multi-purpose solvents and paint thinners to three  
25 percent. However, NRDC is concerned with the timing of

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103

1 the implementation of the second tier of the proposed  
2 reduction of multi-purpose solvent and paint thinner VOCs.  
3 CARB staff has proposed two stages of VOC limits for  
4 multi-purpose solvents and paint thinners. The first  
5 limit is a 30 percent limit by December 2010, and the  
6 second is a 3 percent limit by December 2013. However,

7 AQMD's rule 1143 implements a three percent limit by  
8 January 2011. CARB should align its VOC three percent  
9 limit date closer to the AQMD's rule 1143 by shifting the  
10 2013 implementation date to 2012. This would achieve  
11 important VOC emissions reductions one year earlier than  
12 the currently proposed amendments.

13           We are not convinced by the reasons explained in  
14 the initial statement of reasons justifying the 2013  
15 implementation date. Many products already in the market  
16 comply with the proposed limits. AQMD staff has conducted  
17 extensive technology review research of alternative  
18 products and found 164 products that would meet the three  
19 percent VOC limit. These products are already available,  
20 and 102 of them are certified under AQMD's certified clean  
21 air solvents program. An implementation date of 2012 is  
22 more appropriate for this regulation.

23           NRDC applauds CARB's efforts looking at the  
24 greenhouse gas emissions for global warming potential of  
25 consumer products. We encourage CARB to expand these

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104

1 efforts and to reduce the emissions from other kinds of  
2 consumer products and ingredients contributing to global  
3 warming. We encourage CARB to make California the first  
4 state that officially reduces our global warming footprint



5 from consumer products.

6           Finally, CARB staff mentioned there will be  
7 another regulation process for the consumer products  
8 category in 2010. We look forward to the regulation of  
9 janitorial products, methalyne chloride, dry clean only,  
10 spot removers, and nail coatings in the 2010 rulemaking  
11 process.

12           Thank you for your time. And thank you for your  
13 commitment to protect California's air quality.

14           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
15 Steve Bunting.

16           MR. BUNTING: Good morning, Board members. I'm  
17 Steve Bunting. I'm speaking on behalf of the Southern  
18 California Fire Prevention Officers.

19           First of all, I want to say how appreciative I am  
20 of your staff, particularly David Mallory and Trish  
21 Johnson, how helpful they've been in helping us work  
22 through these regulations and our concerns.

23           Our concern from the beginning has not been with  
24 the use of acetone or another solvents to meet this  
25 regulation; our concern has been putting one product in a

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105

1 can and calling it something else.

2           In particular, people have become used to using  
3 paint thinners safely as a high flash point. If we were  
4 to substitute that with something like acetone which has a  
5 very low flash point without telling them so, you can see  
6 what kind of problem we might have.

7           So we believe the modifications that staff has  
8 recommended for this regulation will reduce the hazard by  
9 letting people know they're not using a product that  
10 they've been used to using all along. They're no longer  
11 using something called paint thinner. They're using  
12 something that has something else in it like acetone,  
13 whatever the solvent is they use.

14           So that's it. Thank you very much.

15           ACTING CHAIRPERSON RIORDAN: Thank you very much.

16           Yolanda Chavez.

17           MR. WRIGHT: Excuse me, Madam Chair. Do you want  
18 me to go ahead and just add the minute now?

19           ACTING CHAIRPERSON RIORDAN: Yes. That's a good  
20 idea.

21           You get an extra minute for the translation.

22           MS. CHAVEZ: Good morning. Thank you very much  
23 for listening to me this morning.

24           My name is Yolanda Chavez. I'm here representing  
25 the Long Beach Alliance for Children with Asthma. And I'm

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1 here to request ARB to get the timeline closer to AQMD's  
2 to reduce VOCs from these solvents. So we urge you to  
3 make the timeline closer to rule 1114 and establish the  
4 timeline to 2012.

5 The reason for our request are as follows:

6 The vast majority of paint thinners and  
7 multi-purpose solvents are used as cleaning products and  
8 not as thinners. We are concerned that as a result  
9 products marked as paint thinners are used  
10 inappropriately. We also ask you to ban the three  
11 chemicals suggested by staff.

12 Thank you very much. As a mother, I ask you to  
13 play a game called win-win for all the children that  
14 suffer from asthma.

15 ACTING CHAIRPERSON RIORDAN: Thank you. Thank  
16 you for being here.

17 Maria Yolanda Lopez.

18 MS. LOPEZ: Thank you very much. My name is  
19 Maria Yolanda Lopez. I'm here representing the Long Beach  
20 Alliance for Children with Asthma.

21 And I want to thank you for giving us the  
22 opportunity to offer our recommendations regarding these  
23 regulations.

24 We have some suggestions for the consumer  
25 products regulations in 2010. Cleaning products, the

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107

1 cleaning products regulations are very important in our  
2 work and our homes. And these regulations will help CARB  
3 save resources which are already reduced and to also  
4 fulfill its promise or commitments to reduce emissions in  
5 its State Implementation Plan of 2007.

6           During the 2008 ARB hearing, the Board gave  
7 instructions to staff to regulate this category. We urge  
8 this Board to support your staff. I thank you very much  
9 for your attention.

10           And I would personally want to share I have a  
11 daughter who has suffered asthma for 28 years. This has  
12 been very exhausting. And I thank you.

13           ACTING CHAIRPERSON RIORDAN: Thank you. Thank  
14 you for being here.

15           Martha Cota.

16           MS. COTA: Good morning. My name is Martha Cota.  
17 I am here representing the Long Beach Alliance for  
18 Children with Asthma. I'm also representing teachers and  
19 students and everyone else who suffers asthma.

20           I have four children; three of them suffer strong  
21 allergies, headaches, strong eye irritation, and nose  
22 bleedings. My fourth son suffers chronic asthma and as  
23 well as me. And his asthma seems to be triggered  
24 specifically or especially during in classroom.

25           And just like my family suffers or has been

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108

1 affected by these VOCs, thousands of families also suffer  
2 the same pain of seeing their children with all these  
3 health problems. Besides the asthma, the respiratory  
4 problems, cancer, and others, our children suffer school  
5 days and we suffer as parents work days because we have to  
6 take them to the hospital.

7           And also in the global warming area, which global  
8 warming doesn't speak, but we can feel all the impacts  
9 already of global warming. That's why we're asking CARB  
10 the following:

11           First, that you adopt regulations that are more  
12 strict so that we can feel that we are being protected  
13 with your work;

14           That CARB adopts the proposal to reduce VOC  
15 emissions from paint thinners from 100 percent to 3  
16 percent;

17           Also, we're 100 percent in support of ARB's staff  
18 proposal to ban all those toxic chemicals in solvents and  
19 paint thinners;

20           And, lastly, we hope faithfully that you will  
21 show your leadership in favor of our communities impacted  
22 by air pollution and toxic chemicals in consumer products.  
23 Our communities have the power of the economy, and we have

24 the power of love towards our families.

25 Thank you.

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109

1 ACTING CHAIRPERSON RIORDAN: Thank you very much.

2 Dr. Katy Wolt.

3 DR. WOLT: Madam Chair, Board members, good  
4 morning. I think it's still morning. Yes, just barely.

5 My name is Katy Wolt. I'm Director of the  
6 Institute for Research and Technical Assistance. It's a  
7 small nonprofit organization that does technical work on  
8 alternatives to test, identify, develop, and demonstrate  
9 alternatives that are safer, primarily in solvent  
10 applications.

11 My organization has done extensive work over the  
12 last several years on alternative thinners and cleanup  
13 materials. And I've become convinced through that work  
14 that alternatives that are low VOC and also lower in  
15 toxicity are available today.

16 As other speakers have suggested, I would like to  
17 see you move the effective date of the final VOC limit of  
18 three percent up earlier to be more consistent with the  
19 South Coast standard, which goes into effect in 2011.

20 With that said, however, I really do strongly  
21 support this regulation today. And I think the staff has

22 done just a great job on developing this regulation. Not  
23 only will it lead to lower VOC emissions, but it will also  
24 lead to lower toxicity and exposure to workers, community  
25 members, and consumers.

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110

1           Among the alternatives that are likely to be used  
2 are water-based materials, soy-based materials and  
3 acetone. And acetone, as you may know, is much lower in  
4 toxicity than virtually all other organic solvents. So  
5 it's much preferred over the solvents that are used today  
6 in paint thinners and in multi-purpose solvents.

7           So not only will we lower the VOC emissions, but  
8 also protect people in terms of toxicity. The staff's  
9 proposal to restrict the aromatic content will also lead  
10 to lower toxicity and exposure to people using these  
11 materials. The aromatics generally are higher in toxicity  
12 than the materials used today.

13           So just in conclusion then, I would like to  
14 strongly support this regulation, but hope you will move  
15 the date up, the effective date of the final lower VOC  
16 limit. Thank you for your attention.

17           ACTING CHAIRPERSON RIORDAN: Thank you. Thank  
18 you for being here.

19 Board members, that concludes the public  
20 testimony. Let me return back to the staff before your  
21 questions and ask the staff perhaps they'd like to comment  
22 on any of the issues that were raised by the speakers  
23 today. And then we'll open it up for questions from the  
24 Board members.

25 MS. TAKEMOTO: Yes, Madam Chair. We'd be happy

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111

1 to respond to some of the comments you've heard this  
2 morning.

3 I'm Carla Takemoto, for the record.

4 You have heard a number of comments about using  
5 the reactivity-based approach rather than a mass-based  
6 approach. We, as staff, agree that reactivity is a viable  
7 approach for the future of this category, and we intend to  
8 look at that before the Tier 2 limit comes into effect.

9 However, our first avenue when we approach a  
10 category is to always try to pursue a mass-based reduction  
11 when feasible. And we found it to be feasible for this  
12 category. So that is the proposal that we have before you  
13 today.

14 You've also heard that the one percent aromatic  
15 compound content limit should be removed and that further  
16 information should be provided as to how we arrive at that



17 limit.

18           First of all, we believe the aromatic limit is  
19 necessary to preserve the benefits of the proposal, namely  
20 ozone reductions. And we find by putting that restriction  
21 in place we are still allowing flexibility to use a  
22 variety of other chemicals to meet the limits.

23           Third, you've heard that the -- oops. Wait. I  
24 have more to say to how we arrived at that limit.

25           The existing market, when we look at the paint

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112

1 thinners and multi-purpose solvents that are currently on  
2 the market, the majority of these products are already  
3 formulated with fairly low reactive hydrocarbons with very  
4 low amounts of aromatic solvent. We look to the future,  
5 the new technologies coming on board, and we found the  
6 same thing to be true. So we have concluded that aromatic  
7 compounds are not necessary for thinning paint.

8           And so in terms of the one percent limit, we are  
9 aware that aromatics may be present as an impurity in  
10 other raw materials and wanted to allow for that issue.

11           You've heard that the definition of aromatic  
12 compound is too broad. You've heard already we are  
13 proposing modifications to evaluate whether we do need to

14 clarify that or exclude specific compounds.

15           You heard issues related to test method and our  
16 ability to enforce this limit. Our lab routinely analysis  
17 for common aromatics, such as the xylene isomers and  
18 toluene. We recognize we have to expand our analytical  
19 capabilities, and that work is underway. And, in fact,  
20 we've pretty much already settled on an ASTM method that  
21 will allow us to enforce that limit.

22           And you've also heard that maybe the technical  
23 assessment that we talked about should be moved up. We  
24 believe that that technical assessment occurs at the  
25 correct time. We need the formulations on the market that

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113

1 are out there meeting the 30 percent limit, and those  
2 products and what their formulations are will serve as a  
3 baseline for us to be able to evaluate how folks are  
4 coming along towards meeting the three percent limit.

5           MR. MALLORY: I'm David Mallory, and I'd like to  
6 address a few other issues.

7           You've heard that the future effect of three  
8 percent VOC limit is not feasible and you've also heard  
9 that it is feasible and in fact should be moved up.

10           We believe it is appropriate. We believe that  
11 three percent products are available on the market. The

12 thinners and solvents are used interchangeably and the  
13 available products will work as cleaners. But the  
14 thinning of paint, there's just a few options right now.  
15 We think the extra time should be afforded to develop less  
16 flammable, less costly, and more effective products that  
17 will thin all types of paint.

18           You've also heard that we did not furnish enough  
19 data to the industry to evaluate our proposal. We did a  
20 survey with full disclosure in 2003, and then we, at the  
21 suggestion of industry, did an update. And when you put  
22 out data twice, you have to be very concerned about  
23 disclosing confidential information.

24           That being said, several members of industry came  
25 to us with specific questions about the data. And after

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114

1 considering whether we would be giving away any  
2 confidential information, we did furnish them with those  
3 specific requests, so they were available.

4           You also heard concerns about the flammability of  
5 the products that we were dictating flammable products and  
6 there were safety concerns. But as you've heard from the  
7 fire official that testified before you that the labeling  
8 requirements that we've proposed address those concerns.

9                   And the National Paint the Coatings Association  
10 suggested that we put together some compliance materials.  
11 We would like to do that and post them on our web, and  
12 we'd like to work very closely with them to do that.

13                   ACTING CHAIRPERSON RIORDAN: Are there any other  
14 comments by staff before we turn it back to the Board for  
15 questions? No.

16                   Then let me open it up it up to the Board members  
17 for questions. Are there any questions, Board members,  
18 for the staff regarding this item?

19                   I don't see any. You have answered all the  
20 questions. Very good.

21                   Let me indicate that this is an item that I  
22 should close the record -- correct, Madam Counsel -- on  
23 this agenda item. However, the record will be reopened  
24 when the 15-day notice of public availability is issued.

25                   Written or oral comments received after this

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115

1 hearing date but before the 15-day notice is issued will  
2 not be accepted as part of the official record on this  
3 agenda item. When the record is reopened for a 15-day  
4 comment period, the public may submit written comments on  
5 the proposed changes which will be considered and  
6 responded to in the final statement of reason for the

7 regulations.

8           We do have a requirement for ex parte. Let me  
9 ask if there are any ex partes that need to be declared on  
10 my right side or left side.

11           I have none. So we have no ex parte on this  
12 particular item.

13           We do have a resolution that is before us. Board  
14 members, what is your pleasure?

15           BOARD MEMBER KENNARD: Madam Chair, I would be  
16 happy to move the motion. However, before, I'd like to  
17 make a brief comment.

18           I was very interested in what the industry had to  
19 say about the technical feasibility and the time frame, et  
20 cetera. But I was convinced that staff has done an  
21 adequate job in looking at all these issues. I just know  
22 they will continue to look at this issue regarding  
23 reactivity versus the mass-based approach. And so I'm  
24 comfortable. But I did not want to neglect the fact that  
25 I heard the industry and I hope that we can work through

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116

1 this.

2           And with that, I will move it.

3           BOARD MEMBER D'ADAMO: Second.

4           ACTING CHAIRPERSON RIORDAN:  And it's been  
5 seconded.

6           Any further discussion on the motion?  Hearing  
7 none, then I'll ask all those in favor signify by saying  
8 aye.

9           (Ayes)

10          ACTING CHAIRPERSON RIORDAN:  Opposed, no.  
11          Motion carries.

12          Now, let me tell what you we're going to do for  
13 the next item.  It's going to be a working closed session  
14 lunch.  We're going to take a break now.  It's 12:00 noon.  
15 A break until 1:00 p.m.

16          The Board is going to go into a closed session as  
17 indicated in the public notice for today's meeting.  The  
18 purpose of the closed session is for the Board members to  
19 confer with or receive advice from its legal counsel  
20 regarding pending litigation listed on today's public  
21 agenda.

22          After the conclusion of our closed session, we'll  
23 reconvene in open session to continue today's meeting.  
24 And as I say, we will expect to return at 1:00 p.m. and we  
25 will carry on with the next item on our agenda.

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2 session and lunch. And I'd ask Board members to pick up  
3 your lunch and join in the room that's provided for us  
4 here behind the dais. Thank you.

5 (Thereupon a lunch recess was taken)

6 ACTING CHAIRPERSON RIORDAN: Ladies and  
7 gentlemen, let me invite you back to your seats and we  
8 will reconvene.

9 I'd like to ask our legal counsel, Ellen Peter,  
10 to summarize our closed session.

11 CHIEF COUNSEL PETER: Yes, Madam Chair. We had a  
12 closed session. The Board was given advise on some of the  
13 items listed on the agenda. No action was taken. So  
14 nothing needs to be reported in more detail.

15 ACTING CHAIRPERSON RIORDAN: Thank you very much.  
16 We're going to move on now to Agenda Item 09-8-7. The  
17 next item on today's agenda is a proposal to amend  
18 California's greenhouse gas regulations for passenger  
19 vehicles.

20 Sort of as a reminder, in September of 2004, the  
21 Air Resources adopted regulations known as the Pavley  
22 regulations requiring significant reduction in greenhouse  
23 gas emissions from passenger cars, light duty trucks, and  
24 utility vehicles. These requirements which are phased in  
25 from 2009 through 2016 will reduce greenhouse gas

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1 emissions from the new vehicle fleet by approximately 30  
2 percent.

3           In 2005, we sent U.S. EPA a request for a Clean  
4 Air Act waiver to allow California to enforce its adopted  
5 standards. Three and a half years later and after  
6 considering its initial denial of California's waiver  
7 request, the U.S. EPA granted California's waiver this  
8 past July. Following Board approval of the Pavley  
9 regulations in 2004, motor vehicle manufacturers and their  
10 trade associations challenged the Pavley regulations in  
11 numerous federal and State court proceedings and opposed  
12 California's request for waiver of preemption under the  
13 Federal Clean Air Act.

14           On May 19th, 2009, government and industry made  
15 commitments with the goal of resolving current and  
16 potential future disputes over the standards through model  
17 year 2016.

18           In summary, the U.S. EPA and the Department of  
19 Transportation agreed to establish national greenhouse gas  
20 and fuel economy standards for the 2012 through the 2016  
21 model years that are as stringent as the Pavley  
22 regulations. The auto makers committed to dropping  
23 current and forgo similar legal challenges, including  
24 their opposition to California receiving a waiver for  
25 Pavley -- for the Pavley regulations. And California



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119

1 committed to amending the Pavley regulations to ease  
2 manufacturers' compliance concerns.

3           We also agreed to accept compliance with U.S. EPA  
4 adopted equivalent greenhouse gas standards for the 2012  
5 through 2016 model years as an option to complying with  
6 the Pavley standards for those model years.

7           Today, we'll hear a proposal to amend the Pavley  
8 regulations to implement two of the elements of  
9 California's May 2009 commitments.

10           Mr. Goldstene, would you like to introduce this  
11 item, please?

12           EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam  
13 Chair.

14           Today's proposal amends the Pavley regulations to  
15 implement two important elements of California's  
16 commitment under the national agreement. The proposed  
17 amendments will allow automobile manufacturers to comply  
18 with fleet average greenhouse gas requirements by pooling  
19 sales in California with sales of vehicles in other states  
20 that have adopted ARB's greenhouse gas standards.

21           The proposed amendments will also allow  
22 automobile manufacturers to use corporate average fuel  
23 economy data to demonstrate compliance with our program.  
24 Both of these changes will help manufacturers achieve  
25 reductions in greenhouse gas emissions from their fleets

□

120

1 while simplifying the process they must follow to meet  
2 their obligations. This item also includes minor  
3 amendments to the low emission vehicle test procedures.

4 In December, staff will propose to the Board the  
5 third element of the agreement, allowing compliance with  
6 national greenhouse gas standards for model year 2012  
7 through 2014 to serve as compliance with the Pavley  
8 regulation.

9 Sarah Carter of the Mobile Source Control  
10 Division will now give the staff presentation.

11 (Thereupon an overhead presentation was  
12 presented as follows.)

13 MS. CARTER: Thank you, James.

14 Good afternoon, Madam Riordan and members of the  
15 Board.

16 Today I will be presenting staff's proposal to  
17 amend the regulations to control greenhouse gas emissions  
18 from new passenger vehicles.

19 --o0o--

20 MS. CARTER: In 2004, the Air Resources Board  
21 approved landmark regulations, known as the Pavley  
22 regulations, to significantly reduce greenhouse gas  
23 emissions from new passenger vehicles sold in California.

24 These regulations, developed in accordance with AB 1493,  
25 were designed to achieve the maximum feasible and cost

□

121

1 effective reduction of greenhouse gas emissions beginning  
2 with the 2009 model year.

3 U.S. EPA granted a waiver of preemption for the  
4 Pavley regulations on July 8th, 2009, which California  
5 needed to enforce the regulations.

6 --o0o--

7 MS. CARTER: The Pavley regulations are based on  
8 the combined value of the four greenhouse gas emissions  
9 from motor vehicles: Carbon dioxide, methane, nitrous  
10 oxide from the tailpipe, and hydrofluorocarbons from  
11 vehicle air conditioning systems. The standards are  
12 expressed in CO2 equivalent terms so that each greenhouse  
13 gas is weighted according to its global warming potential  
14 when determining compliance with the emission standards.

15 --o0o--

16 MS. CARTER: Since the adoption of the Pavley  
17 regulations in 2004, auto manufacturers have challenged  
18 them in numerous federal and State court proceedings.  
19 They have opposed granting of a waiver by U.S. EPA.

20 In March of 2008, U.S. EPA published a notice in



19 should resolve current and potential future disputes over  
20 the standards through model year 2016. This agreement,  
21 which was announced by President Obama on May 19th, 2009,  
22 encompasses a series of actions that each party has  
23 committed to take.

24 --o0o--

25 MS. CARTER: The next two slides briefly describe

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123

1 the commitments made by each party. The U.S. EPA  
2 committed to develop national greenhouse gas regulations  
3 for passenger vehicles applicable for the 2012 through  
4 2016 model years, which would achieve equivalent emission  
5 reductions to the California regulations.

6 This effort is being done in concert with the US  
7 Department of Transportation, which is developing new  
8 corporate average fuel economy regulations for these same  
9 model years that are comparable with the national  
10 passenger vehicle greenhouse gas program.

11 A federal notice of intent for joint rulemaking  
12 by the U.S. EPA and National Highway Traffic Safety  
13 Administration, or NHTSA, issued on May 22nd initiated  
14 this part of their commitment. The first step, a notice  
15 of proposed rulemaking, was released last week.

16

17 MS. CARTER: The automobile manufacturers and  
18 their affiliates committed to dropping their current  
19 lawsuits against the California regulations and forgo  
20 future similar legal challenges to their program through  
21 the 2016 model year. Manufacturers also agreed to drop  
22 their opposition to California's waiver request.

23 And, California committed to three things:

24 First, we committed to allowing manufacturing to  
25 demonstrate compliance with the fleet average greenhouse

□

124

1 gas requirements by pooling vehicle sales from California,  
2 other states that have adopted the Pavley regulations, and  
3 the district of Columbia

4 Second, we committed to allowing manufacturers to  
5 use data from the federal fuel economy program, called  
6 CAFE, to show compliance with the California greenhouse  
7 gas regulations. The goal was to reduce the amount of  
8 testing needed.

9 And, third, we committed to accept compliance  
10 with national greenhouse gas standards for the 2012  
11 through 2016 model years as meeting the California  
12 greenhouse gas requirements.

13 It is important to note that California did not

14 either give up or accept any limit to our authority to  
15 control greenhouse gas emissions from motor vehicles by  
16 agreeing to these regulatory flexibilities.

17 --o0o--

18 MS. CARTER: The result of these commitments is  
19 that ARB and the Section 177 states will enforce the  
20 California standards for the 2009 through 2011 model  
21 years, when there is no national standards.

22 For the 2012 through 2016 model years, a  
23 manufacturer that complies with EPA's greenhouse gas  
24 standards will be deemed compliant with California  
25 requirements.

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1 --o0o--

2 MS. CARTER: This graph shows the greenhouse gas  
3 emission standards for the Pavley program and those  
4 proposed for the national program by the U.S. EPA.

5 For model years 2009 through 2011, the emission  
6 reductions from California regulations are preserved. The  
7 national standards, as recently proposed, are less  
8 stringent on the gram per mile basis than the California  
9 standards in this time period. However, the national  
10 program would achieve greater overall reductions in





9 MS. CARTER: The second regulatory change being  
10 proposed today addresses the manufacturers's claim that  
11 the California regulations impose an economic hardship to  
12 them due to the increased vehicle testing required to  
13 demonstrate compliance. Staff is proposing to allow  
14 manufacturers to use emission data from the federal  
15 corporate average fuel economy program to demonstrate  
16 compliance with California's regulations. This approach  
17 reduces costs to the manufacturers by reducing the numbers  
18 of tests that must be conducted solely for the purpose of  
19 California regulations.

20 Staff is also proposing an additional reporting  
21 requirement that is needed to successfully implement the  
22 changes I just mentioned. Each manufacturer must submit  
23 data to us that shows the mix and number of vehicles  
24 delivered for sale that are used to calculate a  
25 manufacturer's fleet average greenhouse gas values. Those

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127

1 data must be submitted as an aggregation of vehicles  
2 delivered for sale in California, the district of  
3 Columbia, and the section 177 states. This will allow ARB  
4 to verify that the California requirements are being met  
5 if a manufacturer chooses to pool its vehicle sales.

6           The data must also be submitted on a state by  
7 state basis. This will allow states such as California  
8 that are obligated to reduce greenhouse gases under laws  
9 such as AB 32 to identify the reductions in greenhouse  
10 gases that may be attributed to its regulations.

11           Finally, a number of non-substantive changes are  
12 being proposed to update the light-duty test procedures to  
13 ensure that the sections of the Code of Federal  
14 Regulations which are referenced there are current.

15           Staff has had extensive discussion with industry  
16 in developing this proposal as shown on this slide.

17                           --o0o--

18           MS. CARTER: Staff is also proposing 15-day  
19 changes to the original 45-day notice. These changes will  
20 allow compliance with the fleet average greenhouse gas  
21 requirements based on number of vehicles produced and  
22 delivered for sale in California, rather than actual  
23 sales. This change makes the California regulations  
24 consistent with the low-emission vehicle and zero emission  
25 vehicle program requirements.

□

1                           --o0o--

2           MS. CARTER: To summarize, staff's proposal will  
3 implement two commitments made by California as part of

4 the agreement we signed in May with the federal government  
5 and the auto manufacturers. There are no significant  
6 environmental or economic impacts of this proposal.  
7 Therefore, staff recommends that the Board adopt this  
8 proposal, including the proposed 15-day changes.

9           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
10 Board members, are there any questions for staff at this  
11 time?

12           Okay. We have one person wishing to speak, John  
13 Cabaniss, the Association of International Auto  
14 Manufacturers.

15           MR. CABANISS: Yes. John Cabaniss.

16           ACTING CHAIRPERSON RIORDAN: I'm sorry. I  
17 apologize. Now that I'm in the light, I do see what I  
18 just did.

19           MR. CABANISS: Quite all right. Thank you.

20           My name is John Cabaniss with the Association of  
21 International Automobile Manufacturers. AIM fully  
22 supports President Obama's approach announced in May that  
23 was described just a moment ago by the staff for a  
24 harmonized national program to reduce vehicle greenhouse  
25 gas emissions and improve fuel economy.

□

1 EPA and DOT, as was noted in this staff report  
2 just last week released this proposal, and it appears as  
3 again was shown in the slides that the stringency of this  
4 new federal greenhouse gas program is comparable to the  
5 California program.

6 We appreciate the commitments that California has  
7 made to align with this national program, and we support  
8 the changes before you today regarding the pooling of  
9 California and Section 177 state data and the use of CAFE  
10 data for compliance purposes. These changes will provide  
11 more flexibility for manufacturers and we appreciate that.

12 We submitted some written comments earlier. We  
13 noted a few things that we had some concerns about.

14 First, we do not believe the state-by-state  
15 reporting notes required under the pooling option is  
16 consistent with the commitment that was made to the  
17 national program or is really necessary for tracking.  
18 There are better sources of data, including State DMV  
19 records, that can be used for the purposes that were  
20 described and also for inventory purposes. Of course,  
21 fuel tax records are probably the best source for  
22 information as is recognized by the staff, I'm sure.

23 Second, we identified some editorial concerns  
24 which, from looking at the recommended changes for the  
25 15-day notice, look like take care of our problems, and we

□

1 appreciate those changes.

2           In closing, I would just like to again thank you.

3 And we look forward to working with California EPA and DOT

4 as they finalize the national program rules and also in

5 developing a national program for 2017 and beyond that

6 will meet everyone's needs. Thank you very much.

7           ACTING CHAIRPERSON RIORDAN: Thank you. And

8 thank you for being here today.

9           Staff, on the reporting, the issues that he

10 raised, do we -- have we responded and how?

11           CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: We've

12 talked to many of the other states, and they're in a

13 situation just like us. Many of them have AB 32 like

14 laws, and they have told their governors that they're

15 going to get so much out of adopting the California

16 standard, and they just need an individual accounting.

17           For example, it's entirely possible we will get

18 more than we have in the AB 32 Scoping Plan or may get

19 less. The overall for the United States would still be

20 the same as California plus the other 177 states. But we

21 need to know it so we can adjust our counting, and I think

22 there are other states that do, too. It doesn't seem to

23 us to be a particularly difficult task to let us know so

24 we can share with the other states how many of these

25 vehicles were sold in their area.

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131

1           ACTING CHAIRPERSON RIORDAN: Okay. Thank you.

2           That concludes our public comment. And let me  
3 bring it back to see whether or not there are any  
4 questions for staff. Otherwise, I'm going to close the  
5 record. Are there any other questions for staff at this  
6 time? All right.

7           I will now close the record on this agenda item.  
8 However, the record will be reopened when the 15-day  
9 notice of public availability is issued. Written or oral  
10 comments received after this hearing date but before the  
11 15-day notice is issued will not be accepted as part of  
12 the official record on this agenda item.

13           When the record is reopened for the 15-day  
14 comment period, the public may submit written comments on  
15 the proposed changes which will be considered and  
16 responded to in the final statement of reasons for the  
17 regulation.

18           There is an ex parte requirement for this  
19 particular item. Are there any ex parte communications  
20 that need to be reported, Board members? Anyone?

21           None.

22           Then the resolution is before us. Do I have a  
23 motion?

24           BOARD MEMBER D'ADAMO: Move adoption of  
25 Resolution 09-53.

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132

1 BOARD MEMBER BALMES: Second.

2 ACTING CHAIRPERSON RIORDAN: There is a second.

3 Any further discussion?

4 Seeing none, all those in favor of the motion  
5 please signify by saying aye.

6 (Ayes)

7 ACTING CHAIRPERSON RIORDAN: Opposed, no.

8 Motion carries. Thank you very much.

9 We're going to move on to the next item, which is  
10 09-8-8. This next item before the Board is to consider  
11 the adoption of the Climate Action Reserves updated  
12 greenhouse gas accounting protocol for voluntary forest  
13 projects.

14 This update to the forest protocol reflects  
15 changes that the Board recommended when we approved the  
16 California Climate Action Registry's original protocol in  
17 October of 2007.

18 While the former California Climate Action  
19 Registry is now called the Climate Action Reserve, it  
20 continues its role of developing rigorous accounting  
21 protocols. We appreciate the Reserve's work in this area  
22 since it helps encourage voluntary actions to support our

23 climate programs.

24 Today's action does not address regulatory

25 questions that must be considered as part of our cap and

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133

1 trade proposal. That's for a future Board action.

2 Meanwhile, I'm pleased that the Climate Action  
3 Reserve continues to play an important supporting role by  
4 developing sound project accounting methods.

5 Let me ask Mr. Goldstene if he would like to  
6 introduce this item to us, please.

7 EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam  
8 Chair.

9 Today staff will present an overview of the  
10 improvements made to the Forest Project Protocol approved  
11 in 2007. ARB staff worked closely with the Climate Action  
12 Reserve through the public process. The accounting issues  
13 posed by forest projects are complex, and we believe the  
14 Reserve staff in collaboration with other technical  
15 experts did an excellent job sorting through the issues.

16 ARB staff does not recommend any changes to the  
17 protocol. However, you will hear discussions of  
18 clarifications to the Reserve's language in a few  
19 instances. Gary Gero, President of the Reserve, will  
20 speak to this point.







16 Reserve to coordinate the protocol update. A working  
17 group was formed with representation from nonprofits and  
18 conservation organizations, public and private landowners,  
19 academia, and government agencies.

20 ARB actively participated in the work group,  
21 which met every three weeks. Four public workshops were  
22 held and public comments were solicited on several key  
23 issues, as well as on two draft versions of the updated  
24 protocol. A final version of the Forest Project Protocol  
25 was adopted by the Reserve's Board on September 1st.

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136

1 --o0o--

2 MR. WINEGAR: The protocol provides methods for  
3 quantifying carbon stocks and net emission reductions in  
4 forest projects. The protocol is designed to ensure that  
5 quantified reductions are real, meaning they are  
6 calculated accurately and conservatively, additional to  
7 any reductions that would result from legal or regulatory  
8 requirements and additional to what would be expected to  
9 occur under business-as-usual practices.

10 Permanent, meaning that reductions are maintained  
11 for a long period of time and that mechanisms are in place  
12 to address the risk that stored carbon could be lost, for

13 example, by fire.

14           And verifiable, meaning that calculated  
15 reductions can be independently reviewed and attested to  
16 by an accredited third party.

17   --o0o--

18           MR. WINEGAR: The protocol covers three eligible  
19 project types.

20           Reforestation projects involve planting trees on  
21 land that has been out of forest cover for a period of  
22 time or has recently experienced a significant  
23 disturbance. Allowing projects after a recent natural  
24 disturbance is an improvement to the updated protocol that  
25 will expand project eligibility.

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137

1           Improved forest management projects involve  
2 activities that increase carbon storage in forest lands  
3 relative to an appropriate baseline.

4           Avoided conversion projects involve the  
5 preservation of forest lands where there is a significant  
6 threat of conversion. The preservation is accomplished  
7 through obtaining a conservation easement or transfer from  
8 private to public ownership.

9           It is important to note that all projects,  
10 regardless of the type, must maintain or increase live

11 tree biomass in the forest.

12 --o0o--

13 MR. WINEGAR: Some of the key areas addressed in  
14 the protocol update include: Expanded applicability;  
15 improved methods for calculating baselines and  
16 additionality; improved methods to address permanence and  
17 leakage risks; requirements to demonstrate sustainable  
18 harvesting practices; a clearer definition of natural  
19 forest management; and the inclusion of harvested wood  
20 product accounting.

21 --o0o--

22 MR. WINEGAR: In the current protocol, the  
23 requirement for all projects to obtain a conservation  
24 easement has been a major barrier to participation for  
25 public lands as well as many private landowners. To

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138

1 expand the applicability, the update replaced the  
2 conservation easement requirement for most projects by  
3 addressing permanence through a contractual mechanism  
4 known as a project implementation agreement.

5 To improve protocol efficiency, the update  
6 includes less burdensome and more flexible forest  
7 inventory requirements. The update also expands

8 geographic applicability with projects throughout the  
9 United States now eligible. Because protocol  
10 methodologies rely on US-specific data sets, international  
11 projects are not eligible at this time. In addition to  
12 reduced barriers and expanded geographic applicability,  
13 projects on public lands are also now eligible with the  
14 approval of appropriate government agencies.

15 --o0o--

16 MR. WINEGAR: An example of a potentially  
17 eligible reforestation project on public lands is Cuyamaca  
18 State Park. Cuyamaca experienced an exceptionally hot  
19 catastrophic fire in 2003 that sterilized soils and has  
20 prevented natural regeneration. This project would not  
21 have been eligible under the current protocol because of  
22 barriers to participation for public lands and because  
23 reforestation projects following significant disturbance  
24 were not accepted until after ten years had elapsed.

25 Reforestation of Cuyamaca's conifer forest is now

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139

1 taking place on 2500 acres with the intention of  
2 registering the project with the Reserve under the updated  
3 Forest Project Protocol.

4 In addition to climate benefits, restoring the  
5 Cuyamaca forest will provide critical habitat for native

6 and endangered species, reduce erosion risk, and reduce  
7 the spread of invasive species.

8 --o0o--

9 MR. WINEGAR: In terms of quantification, the  
10 protocol update improves methods for determining baselines  
11 and additionality for all project types. Baselines are  
12 established for each project and are an estimate of forest  
13 carbon stocks under a business-as-usual scenario. A  
14 baseline is used as a reference point to quantify emission  
15 reductions and determine when reductions are additional.

16 The protocol requires that project activities be  
17 in addition to what is required by law or regulation and  
18 in addition to what is expected under business as usual.  
19 The update includes a more conservative approach for  
20 determining forest management baselines by taking into  
21 account common practice in each project's region.

22 --o0o--

23 MR. WINEGAR: Because of the risk that carbon  
24 stored in forests could be released at a later time, it is  
25 important to have a mechanism to ensure the permanence of

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140

1 emission reductions. The Reserve requires that all  
2 credited reductions be maintained for 100 years.





1 improvements to addressing leakage risks. Leakage refers  
2 to the potential for increased emissions outside of the  
3 project area as a result of the project.

4 Leakage risks exist for all project types. For  
5 example, projects that reduce timber harvesting may lead  
6 to increased harvesting elsewhere.

7 The current version of the protocol only  
8 addresses the shifting of harvesting on lands owned by the  
9 same forest owner.

10 The new method has a broader approach and  
11 recognizes that leakage risks are not confined to within a  
12 forest owner's lands, but may involve a broader market  
13 response. The updated protocol contains a simplified but  
14 more comprehensive approach using standardized discount  
15 factors.

16 --o0o--

17 MR. WINEGAR: The proposed protocol includes  
18 requirements for demonstrating sustainable harvesting and  
19 for employing natural forest management. Though natural  
20 forest management is required in the current protocol, it  
21 has been defined more clearly in this protocol update.  
22 Specifically, all projects must maintain or increase life  
23 tree biomass in the forest. Projects must also manage for  
24 a diversity of native species and age classes and manage  
25 to conserve structural elements such as dead wood to

□

1 support functioning habitats.

2 --o0o--

3 MR. WINEGAR: During the update process, there  
4 was strong stakeholder support to include harvested wood  
5 product accounting. While all projects must increase live  
6 tree biomass to receive credit, the new protocol includes  
7 accounting of carbon in wood products that remain in use  
8 after 100 years.

9 Wood product accounting is measured relative to  
10 harvesting in the baseline, so only increases in stored  
11 carbon are credited.

12 It must be emphasized that the highest carbon  
13 value is always in live tree biomass in the forest. As  
14 soon as wood products leave the forest, discounts are  
15 applied for mill efficiencies, processing, and wood  
16 product decays.

17 Under the updated protocol, wood products that do  
18 not remain in use and enter landfills are accounted for  
19 separately and do not receive credit.

20 --o0o--

21 MR. WINEGAR: The updated Forest Project Protocol  
22 has achieved the goals set forth by the Board resolution  
23 in October 2007.

24 ARB staff recommends that the Board adopt the  
25 Climate Action Reserve Forest Project Protocol Version 3.0

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143

1 as a non-regulatory greenhouse gas accounting methodology  
2 to promote voluntary early action projects.

3 ARB staff recognizes that protocols are dynamic  
4 and that further revisions based on practical experience  
5 and scientific research will likely be needed in the  
6 future. ARB staff will continue to work with the Reserve  
7 to make further refinements to the forest protocol after  
8 adoption.

9 Thank you.

10 ACTING CHAIRPERSON RIORDAN: Thank you very much.  
11 And let me ask if there are any questions by Board members  
12 at this time for staff.

13 Seeing none, we'll move on to those who have  
14 signed up to speak on this particular item.

15 Let me indicate Gary Gero, Paul Mason, Eddie  
16 Scher, you are going to be first.

17 And Mr. Gero.

18 MR. GERO: Very good. Thank you, Board Member  
19 Riordan and members of the Board. I appreciate the  
20 opportunity to be here today. It's nice to see you all  
21 again.

22 I'm Gary Gero, President of the Climate Action  
23 Reserve. We're very pleased to be able to present to you  
24 today our Forest Project Protocol Version 3.0, which is a

25 significant advancement as you've heard from Erik and his

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144

1 staff that really demonstrates the key role that forests  
2 efforts can play in combating climate change.

3           As you've heard, this has been the result of a  
4 long and intensive process, a comprehensive process, and  
5 I'll say an open and stakeholder-driven process to develop  
6 the protocol that's before you today. You saw the range  
7 of organizations that were part of the work group. We  
8 included all stakeholder categories, and they did meet in  
9 all-day sessions every three weeks for a period of close  
10 to 18 months. Really a tremendous dedication of time and  
11 resources.

12           The public process itself was also quite robust.  
13 In addition to the four workshops that Erik Winegar  
14 mentioned, our Board held two public hearings on this  
15 protocol before adopting it. And we held four separate  
16 comment periods on different aspects of the protocol,  
17 twice on the full document itself and twice on specific  
18 issues within the document. All of those comments, more  
19 than 300 pages worth of comments, were posted to our  
20 website. We responded in writing to each and every  
21 comment that was received. We incorporated those comments  
22 and believe that the public engagement in this has really

23 resulted in a protocol that is a tremendous step forward  
24 for forest project accounting.

25           We did clearly address the issues I think that

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145

1 this Board set forth for us with regard to expanding the  
2 applicability of the protocol to public lands and to  
3 working forests. But also we sought to expand its use  
4 beyond California's borders, and the work group came up  
5 with a very elegant protocol that works across the  
6 United States. We're very proud to hear already since our  
7 Board's adopted people coming in from states such as  
8 Michigan and Pennsylvania and Oregon to use the protocol.  
9 So again I think it shows California's leadership in how  
10 greenhouse gas accounting and how early voluntary actions  
11 can be recognized.

12           I certainly understand that there are issues  
13 still to be resolved. There's always issues to be  
14 resolved. And one in particular has arisen, and I wanted  
15 to address it here today. And that is the question of  
16 even-age management with regard to the forest protocol.

17           And I want to say that the goal of the Reserve  
18 and of the work group in crafting this language regarding  
19 even-age management was to create various explicit limits

20 on the use of this practice and to ensure that even-age  
21 management was not a major component of any forest  
22 project.

23 Further, it was very clear that this protocol  
24 does not absolve land owners of their obligations under  
25 California law or any other law, nor does it reduce their

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146

1 requirement to maintain forest carbon and increase that  
2 forest carbon.

3 We are committed to address this issue by moving  
4 this section on even-age management from the national  
5 forest management section of the protocol into its own and  
6 to clarify this intent. So I want to make that clear here  
7 today.

8 We think it's very important that you adopt this  
9 protocol today. I think it's important that we begin to  
10 encourage early actions to reduce greenhouse gas  
11 emissions. Forests have a serious role and an important  
12 role. And I appreciate your consideration.

13 We want to thank the staff for their hard work  
14 with us, thank this Board, and of course thank you, the  
15 work group and members of the public, who are so deeply  
16 engaged. Thank you.

17 ACTING CHAIRPERSON RIORDAN: Thank you, Gary. I

18 gave you a couple of extra seconds there, because your  
19 organization was involved in so much of this. And I want  
20 to just extend to you and to your Board my appreciation  
21 for the many hours that you've spent on this. And it  
22 appears to me to be much improved, and we thank you for  
23 that.

24 MR. GERO: Thank you.

25 BOARD MEMBER BALMES: Madam Chair, may I ask a

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147

1 question?

2 ACTING CHAIRPERSON RIORDAN: Sure. Dr. Balmes.

3 BOARD MEMBER BALMES: Point of clarification.

4 You said that recognizing even-age management is not  
5 consistent with national forest preservation and  
6 management, that you were moving it into a separate  
7 section. So what's the practical impact of that? Moving  
8 it to a separate section?

9 ACTING CHAIRPERSON RIORDAN: I think it's a  
10 question of implication or connotation with regard to what  
11 is national forest management. Clearly, what we were  
12 trying to do here was make very explicit strong  
13 limitations on this practice. That was the goal of the  
14 work group. I understand that there are those who believe

15 that there should be no even-age management. And so then  
16 it's not consistent potentially with the notion of natural  
17 forest management. So by moving it to another section, it  
18 doesn't confound the issue of what is natural forest  
19 management but still imposes this explicit limitation.

20 BOARD MEMBER YEAGER: Madam Chair.

21 ACTING CHAIRPERSON RIORDAN: Yes, Supervisor  
22 Yeager.

23 BOARD MEMBER YEAGER: You'd also mentioned along  
24 with the separate section to clarify the intent. I didn't  
25 know if you could expound on that a little bit now. I

□

148

1 think there is some confusion of what the impact might be.  
2 Maybe it's after all of our testimony, but whether there  
3 is a misunderstanding or agreement, I'm not exactly sure.  
4 But I didn't know what you meant by clarifying the intent.

5 MR. GERO: Right. The intent of this language  
6 was to limit the practice of even-aged management. In  
7 particular, as the work group looked at application of  
8 this protocol beyond California's borders into 49 other  
9 states, we wanted to set a clear marker that even-age  
10 management would not be a major component of any forest  
11 project.

12 That said, we also realize that even-age



13 management is allowed under California law, and this  
14 reflects that fact. It's allowed in greater degree under  
15 other laws. In fact, some places there's no limitations  
16 whatsoever.

17           The work group really sought to even the playing  
18 field with regard to this forest practice. And so the  
19 intent wasn't to open new opportunities for even-age  
20 management, really to limit those opportunities.

21           The timing for this change to my mind is a  
22 clarifying technical change to the protocol, so something  
23 that we can do fairly quickly. I'll consult with my Board  
24 when they meet on October 7th.

25           BOARD MEMBER YEAGER: Thank you.

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149

1           ACTING CHAIRPERSON RIORDAN: Ms. D'Adamo.

2           BOARD MEMBER D'ADAMO: Why not limit it to 20  
3 acres then?

4           MR. GERO: I suppose you can always ask what is  
5 the appropriate number. The work group in their  
6 deliberations -- and they spent a lot of time thinking  
7 about this issue -- looked at what was allowed under  
8 California forest practice rules and took, in effect, the  
9 most liberal interpretation of California practice rules,

10 which under certain circumstances does allow up to 40  
11 acres. Given that, we said, let's set that as the  
12 baseline, the bar, to which other states will have to  
13 comply.

14 BOARD MEMBER D'ADAMO: I'm trying to quickly come  
15 up to speed on this issue. And we did receive quite a lot  
16 of written materials. So maybe if you could help walk me  
17 through California law.

18 There is a restriction on anything above 20 acres  
19 unless the director of the Department goes through a set  
20 of criteria. And in that situation, it could be  
21 increased. And this is where I fade out here. Could be  
22 increased up to how many acres?

23 MR. GERO: Up to 40 acres is my understanding.

24 BOARD MEMBER D'ADAMO: So was there any  
25 consideration of including -- and obviously the director

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150

1 can't go into other states and go through this analysis.  
2 But were there any deliberations to include a similar  
3 process?

4 MR. GERO: I wasn't party to the work group and  
5 all of its meetings. But I know that they discussed this  
6 issue at length.

7 One of the things we strive for is standardized

8 protocols that are easily applied to make administrative  
9 efficiencies so we don't have case by case analyses and  
10 scenarios presented to us that we'll have to evaluate as  
11 staff. We try to write rules that are very clear up front  
12 and not have these kinds of exceptions.

13 I don't know that the work group considered such  
14 an exception process, but it would have been something  
15 that is contrary to how we had given direction to the work  
16 group as to what we'd like to see.

17 ACTING CHAIRPERSON RIORDAN: Our staff may have a  
18 comment there for clarification.

19 DEPUTY EXECUTIVE OFFICER TERRY: We're in a  
20 different seating spot than we usually are.

21 Clarifying the intent was something that we asked  
22 Gary to consider. And we also put language in our  
23 resolution to clarify the fact that State law --  
24 requirements of State law must be met, and nothing in this  
25 protocol can relieve parties of that obligation. And so

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151

1 that was why we weren't asking them to reiterate State law  
2 and rules within the protocol itself. But that's a given  
3 that they have to comply with that in order to have a  
4 project.

5 ACTING CHAIRPERSON RIORDAN: Dr. Sperling.

6 BOARD MEMBER SPERLING: This might be relevant  
7 for the staff also.

8 But when I read through it, it looks like there's  
9 no credit given for biomass material used for energy  
10 purposes. Is that true? And if so, why is that?

11 MR. GERO: That is true. And the reason for that  
12 is that that's considered a separate project activity.  
13 How the wood is used and where it's used is a separate  
14 activity from the storage on the land. That was not  
15 considered part of this protocol.

16 BOARD MEMBER SPERLING: What does that mean? I  
17 mean --

18 ACTING CHAIRPERSON RIORDAN: Well, there would  
19 have to be another protocol for that type of activity that  
20 you just raised.

21 BOARD MEMBER SPERLING: But that there will be  
22 another protocol --

23 ACTING CHAIRPERSON RIORDAN: There may be.

24 MR. GERO: There may be. This is an area where  
25 if energy production is subject to a cap, it may not lend

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152

1 itself to offsets or voluntary action on an early basis  
2 given that the sector will be capped. So we are

3 considering a biomass protocol -- project type protocol  
4 for biomass, but at this point haven't made any  
5 commitments to do so.

6           ACTING CHAIRPERSON RIORDAN: Any other questions,  
7 Board members, of this speaker?

8           Okay. Thank you. If you would stay available,  
9 we may ask you some more questions.

10           Mr. Mason, Mr. Scher, Mr. Nowicki.

11           Mr. MASON: Good afternoon, Madam Chairman,  
12 members of the Board. I'm Paul Mason, the California  
13 Policy Director for Pacific Forest Trust.

14           Pacific Forest Trust has a long history with  
15 protocols. We sponsored SB 812 back in 2001 which created  
16 the California Climate Action Registry, which has become  
17 the Reserve. We helped develop the first round of the  
18 protocols. And we were a participant in the work group  
19 for the last couple of revisions, including this one.

20           We think that Version 3.1 is a solid document  
21 that establishes a good logical accounting framework for  
22 voluntary forest projects in the United States, and we  
23 urge your adoption of that protocol today.

24           We think it's important to have a solid credible  
25 national standard. And I think it's worth noting that

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1 projects that have been done under the Climate Action  
2 Registry or Reserve's process are seen as more credible  
3 out in the open market and are bringing far more revenue  
4 back to landowners that are doing projects under this  
5 protocol than under some of the other protocols. So it's  
6 helping to validate the idea that good accounting  
7 standards and solid -- we can't really call them  
8 regulations, but solid rules can be positively reflected  
9 in the marketplace.

10           As Gary noted and the staff noted, there are a  
11 handful of technical issues that we remain interested in  
12 working with the ARB and the CARB staff to try to resolve  
13 those. But we do urge you to adopt these protocols today.  
14 Thank you.

15           ACTING CHAIRPERSON RIORDAN: Thank you very much.  
16           Eddie Scher.

17           MR. SCHER: Hi. I'm Eddie Scher. I'm a private  
18 citizen today. And I really want to just reiterate a  
19 concern I guess from a little bit of a different  
20 perspective.

21           In today's New York Times, there is an article  
22 asking should even-age forest management be part of a  
23 carbon offset protocol. And I think that that question I  
24 would hope would not knock this whole protocol off track,  
25 but it should be asked very clearly of the Board.

1 I saw there has been a press release already sent  
2 out acknowledging that the protocol hasn't been adopted.

3 But I think that the question, which I would  
4 probably reword a little bit, to ask clearcut forestry has  
5 any place in carbon trading. The answer I think is pretty  
6 simple that it does not. This language I believe was  
7 added late in the process. I think that in this protocol  
8 has no real reason to bring it up.

9 I think that it's a question for the State of  
10 California whether they can -- the State can seriously  
11 consider carbon trading and allow the worst possible  
12 forestry practices in that protocol. And I think allowing  
13 this language to go forward as it is, even with minor  
14 administrative tweaks and where it sits in the document,  
15 opens up that question. I'd like to see that question  
16 remain as part of this until you folks do the right thing  
17 and pull that language from the document.

18 And, again, I just want to say that I acknowledge  
19 the great work that's been done on the protocol. I'd love  
20 to see a really excellent trading program before the State  
21 of California. But clearcut logging has no place in that  
22 protocol.

23 Thank you.

24 ACTING CHAIRPERSON RIORDAN: Thank you very much.

25 Mr. Nowicki.

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155

1           MR. NOWICKI: Madam Chair and members of the  
2 Board, thank you for your time.

3           My name is Brian Nowicki. I'm with the Center  
4 for Biological Diversity, one of 25 conservation  
5 organizations who submitted to you a letter expressing our  
6 strong opposition to the paragraph in the protocols that  
7 appears to explicitly endorse clearcutting as a carbon  
8 reduction project or measure.

9           As you've heard, this problematic paragraph has  
10 caused such concern among organizations involved in forest  
11 conservation because, first, it specifically names  
12 clearcutting as a potential carbon reduction project under  
13 the protocols.

14           Second, it directly contradicts the definition of  
15 natural forest management in the same section of the  
16 protocols.

17           Third, regardless of the intent of the provision  
18 by appearing to describe some of California's forest  
19 practice rules but omitting critical protections that  
20 limits clearcutting in California, the paragraph waters  
21 down our own forest protections to the point that they are  
22 seriously deficient and unrecognizable.

23           So while I appreciate the fact that the  
24 resolution before you today acknowledges the fact that the



25 new paragraph is inappropriate, the resolution itself

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156

1 falls short of addressing the specific problems of that  
2 paragraph. Specifically, the resolution would merely  
3 refer the paragraph back to the Reserve to move it to a  
4 new section in the protocols, while the Board today adopts  
5 the protocols of the paragraph in place.

6           The resolution does nothing to address the  
7 inadequacies of the paragraph itself or to address the  
8 strong implication of the paragraph, wherever it is  
9 located, that the protocols and therefore the Air  
10 Resources Board encourages forest clearcutting as a carbon  
11 reduction measure, something that is outside of this one  
12 paragraph greatly contradicted by the rest of the  
13 protocols as they read today and in the revisions before  
14 you.

15           There are many reasons, of course, that forest  
16 clearcutting is no solution for climate change.  
17 Clearcutting is the most environmentally risky and  
18 damaging of forest harvest practices and releases the  
19 greatest amount of carbon from the forest.

20           By adopting the protocols today with even-age  
21 management paragraph in place, the Air Resources Board

22 would put into effect a highly controversial provision  
23 that unnecessarily casts doubt on the integrity of the  
24 program in the whole.

25 In the mean time, the paragraph would

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157

1 inadvertently offer the largest timber operators in  
2 California something to point to as justification for  
3 business-as-usual clearcutting.

4 Therefore, I urge you to instead remove this  
5 paragraph today and ask for the Reserve to consider how to  
6 more appropriately address the issue as part of the  
7 revisions that they have already stated that they'll be  
8 undertaking.

9 Thank you for your time.

10 ACTING CHAIRPERSON RIORDAN: Thank you, Mr.  
11 Nowicki.

12 Just one quick question. You heard Mr. Gero  
13 indicate they were willing to move this. Does that make  
14 you more comfortable?

15 MR. NOWICKI: Moving the paragraph does help to  
16 get at one of the problems of the provision which is that  
17 it was smack dab in the middle of the natural forest  
18 management definition before, the definition that directly  
19 contradicts. So that does remove some of that direct

20 contradiction. However, it still stands that without this  
21 one paragraph there is no way to construe the rest of the  
22 protocols as allowing clearcutting as a provision instead  
23 of this very direct reference and referral to the  
24 clearcutting.

25           ACTING CHAIRPERSON RIORDAN: All right. Thank

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158

1 you.

2           Addie Jacobson, Gary Ryneauson, Susan Robinson.

3           BOARD MEMBER SPERLING: By the way, I did look on  
4 the website, and the press release was a draft press  
5 release that was released by mistake and has been  
6 retracted, the reference to the forestry protocol press  
7 release.

8           MS. JACOBSON: Good afternoon, Board. I'm Addie  
9 Jacobson here. I'm here today from the town of Murphys in  
10 the Sierra Nevada. We've come down to talk to you,  
11 because we think this is a very important issue.

12           Today, I'm representing Ebbetts Pass Forest  
13 Watch, but also representing my children and my  
14 grandchildren and the people of California and the  
15 resources of California.

16           I want you to know I have no financial interest

17 in whether these protocols pass or don't pass. I'm not  
18 making any money to be here. I'm not making any money if  
19 they pass or don't pass. So my comments come to you from  
20 the point of view of looking at public trust resources and  
21 the people.

22           Today, you have before you a very important  
23 document, and its projects will be authorized for 100  
24 years. So it's really important that you get it right,  
25 because if you set out these projects, they will still be

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159

1 in effect if all goes well for the world in the time of my  
2 great, great, great, great grandchildren. So we don't  
3 have room for mistakes here. We have to get it right.  
4 And so I think to think that we can move something out  
5 that isn't completely finished is a great mistake.

6           The other reason I think it's really important  
7 that we get it right is because where I live in the Sierra  
8 Nevada, climate change is real. It's happening, and it's  
9 happening fast. The effects are already very evident.  
10 We're seeing them in decreased snowpack, earlier runoff,  
11 more frequent and intense wildfires, and pine beetle  
12 infestation.

13           Because it's real where I live and because it's  
14 happening quickly, I was disappointed when I went to the

15 September 1st CCAR meeting and found out several times  
16 they mentioned that this protocol document had been  
17 produced through a process of compromise.

18           Climate change decisions that we make are going  
19 to affect our future in the most fundamental way. And  
20 this is not the time for political rulemaking in the  
21 typical manner. We must get it right, and there is no  
22 room for compromise. And it's not a political issue.  
23 This is a real issue.

24           And I don't believe it's right to adopt them,  
25 knowing there is dissension, that there is lack of

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160

1 clarity, that there's confusion and that we're going to  
2 adopt them and then go back and think about them later.  
3 And although there's numerous reasons Ebbetts Pass Forest  
4 Watch would like to clean up the protocols, the most  
5 central is the section you heard on clearcutting that  
6 explicitly allows it. I won't go into that too much, but  
7 I just want to mention again that this came in in a late  
8 method and that this method of logging effects emissions  
9 for decades. It's a net emitter for decades before it  
10 becomes a sequester. We don't have time for that. Moving  
11 the language to another section is not an answer. And we

12 can't afford this time as we move forward, because your  
13 credibility and your integrity of that of the state of  
14 California is on the line. Thank you very much.

15           ACTING CHAIRPERSON RIORDAN: Thank you for being  
16 here.

17           MR. RYNEAUSON: Madam Chair, members of the  
18 Board, my name is Gary Ryneauson. I am a registered  
19 professional forester and here today representing Green  
20 Diamond Resources. We own lands in Humboldt, Del Norte,  
21 and Trinity County and have managed those lands since  
22 1947.

23           I was a member of the working group and have  
24 spent the last 18 or 19 months of my life working very  
25 closely with the group that I believe to be one of the

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161

1 most dedicated, intelligent, committed groups I've ever  
2 worked with.

3           This group represented a very diverse group of  
4 individuals from various organizations, from various  
5 opinions on the issues that lay before us. It was often  
6 divisive, but we always managed to come back and find a  
7 ground that we could agree on.

8           Just for clarification, the issue of natural  
9 forest management is not a late issue. It is an issue we

10 took up within the first three months of the organization  
11 of our Committee. So this is an issue that was one of the  
12 keystone issues that we needed to address.

13 Under the old protocols, my company could not  
14 participate with those protocols, because it could be  
15 interpreted to include a ban on even-age management.

16 We are fully supportive of these protocols as  
17 they currently exist. There are certainly some things we  
18 would like to see different. And at this point, we  
19 believe they're the right thing to do and to move forward  
20 for the voluntary program. We also are a cosigner to the  
21 letter that CARB submitted to you yesterday.

22 Our lands are currently a new sequester of  
23 carbon. We own 440,000 acres of lands. And we operate  
24 those lands under two federally-realized habitat  
25 conservation plans: One for the northern spotted owl and

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162

1 one all the listed fish species that exist on our  
2 property. We have some of the best rounds of Coho you'll  
3 find on the north coast that are on our lands.

4 Our lands are managed pretty much through  
5 even-age management. Our average opening is 23 acres. So  
6 the 40 acres that you've discussed today is an anomaly.

7 It's very rare that openings go to 40 acres. Openings are  
8 typically between 20 and 30 acres. The more sensitive the  
9 lands, the more steeper the land, the more rainfall, the  
10 smaller the opening can be.

11 Also the management of our lands has been  
12 recognized by the Department of Fish and Game for our  
13 practices that are consistent with the California  
14 Endangered Species Act and the protection of Coho salmon.

15 Also, these protocols actually under-report the  
16 benefits from forest in three ways:

17 One, by not recognizing the material that is  
18 stored in the landfill;

19 Two, which you discussed, the issue regarding the  
20 biomass energy that is produced from forests;

21 And also substitution, meaning substitution of  
22 wood for other more energy-hungry products.

23 Thank you. I would be happy to try to address  
24 any questions you might have regarding any forest practice  
25 rules.

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163

1 ACTING CHAIRPERSON RIORDAN: Thank you.  
2 Are there any questions? Not at this time.  
3 Thank you very much.  
4 Susan Robinson, Eddie Murphy, and Michelle



5 Passero.

6 MS. ROBINSON: Hi. My name is Susan Robinson.  
7 I'm representing a group called Mountain Alliance today.  
8 I live in Arnold, California, around 3,800 feet elevation  
9 in the sierra forest area.

10 I grew up in a family that my dad was a forester.  
11 He had a Masters in forestry. I grew up in State parks  
12 and forest lands on the east coast. But my dad always  
13 told me something that stuck with me. You don't need to  
14 be a professional forester to understand and look at the  
15 forest and to know whether it's good or bad forestry. And  
16 that stayed with me throughout my life.

17 I went on to a career in a major oil company,  
18 Chevron, where I spent most of my career managing  
19 environmental programs, doing audits, managing  
20 environmental staffs, and working with our shareholders  
21 and stakeholders about environmental concerns and  
22 perceptions. So I think I know a little bit about how  
23 perception is reality sometimes.

24 We are opposed to the provision for even-age  
25 management, which must be called clearcutting. That's the

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164

1 technical name, but it is clearcutting most always. And

2 we are opposed to that being in the protocols. California  
3 needs to set a high bar, and it would be achievable for  
4 large industrial companies to do selection harvesting as  
5 some of them do. So it would be achievable.

6 I won't go into all of the details about the  
7 extra CO2 emissions from clearcut logging versus other  
8 forms, as others have covered that.

9 However, I would mention that in terms of  
10 under-reporting CO2 emissions, the soil carbon provisions  
11 in the protocols are not fully reporting soil emissions  
12 which are pretty massive from clearcutting in which the  
13 soil is ripped and tilled like farmland soil.

14 So, lastly, I'd like to say, going back to my  
15 comments about perception is reality, one of my concerns  
16 would be if the protocols were passed with this provision  
17 for clearcutting, what would a major company, a major  
18 chemical company, energy company, or other company think  
19 about if they were to try to buy some of these carbon  
20 credits using these forest projects? Would they really  
21 want to risk their shareholders, their stockholders, and  
22 the public would be seeing them somehow as trying to trade  
23 off smokestack emissions for clearcutting of forests.

24 So I think that is something that needs to be  
25 seriously thought about, what will be the perception.

□

1 Clearcutting will be seen as a problem within the  
2 protocols. Thank you very much.

3           ACTING CHAIRPERSON RIORDAN: Thank you very much  
4 for being here.

5           Ed Murphy, and then let me say there was somebody  
6 who just signed up, Jim Stewart. We'll have Jim Stewart  
7 after Ed Murphy and then Michelle Passero.

8           MR. MURPHY: Good afternoon members of the Board.

9           I want to clarify something just to put this in  
10 some perspective. You guys all work on this Board, and  
11 I'm sure your Board is equally respected as the State of  
12 California Fish and Game Commission Board or the Board of  
13 Forestry's Board, the Regional Water Control Board, the  
14 State Water Quality Control Board, the Department of Fish  
15 and Game, the Department of Forestry, the Department of  
16 Mines and Geology, all of those agencies have direct  
17 control over timber harvesting, and none of them has  
18 proposed to ban this particular civil culture. So I want  
19 to point out before you jump into this morass, there are a  
20 lot of other people that are very, very talented.

21           And part of the reason your Board charged CCAR  
22 with the putting together a technically competent  
23 stakeholder group, and we did that. We did exactly what  
24 you asked. We worked for 21 months. We worked very hard  
25 on this process. And that's why we were brought in, to

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166

1 bring that technical expertise to be able to make the  
2 kinds of rational judgments that are necessary to produce  
3 appropriate reliable accurate protocols.

4           As to many of the claims you've heard today, they  
5 are typical claims. When you actually dig just a little  
6 bit into them, you find out they, indeed, apply to  
7 tropical forests, boreal forests, but virtually none of  
8 them apply to northern temperate forests of the  
9 United States, which is why our stakeholder group,  
10 although when first asked we didn't even want to do it,  
11 but after that we limited the use of this protocol to the  
12 United States.

13           The forests of the United States are northern  
14 temperate forests. They're disturbance adapted forests.  
15 Many of them are naturally even-age forests. So when you  
16 start taking apart the definition of natural forest  
17 management and don't include even-age forests, you're  
18 excluding many of the forests of the United States.

19           Now, much of soil carbon and other issues are  
20 boreal forests claims and they're tropical claims. They  
21 have nothing to do with northern temperate forests. If  
22 this northern temperate forests of the United States  
23 weren't on steep grounds as they are or more rolling  
24 ground, they would have been converted to agriculture as  
25 much of them were in the 1600s, 1700s and now are growing

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167

1 back into forests in the United States. The northern  
2 temperate forests are very resilient, very well managed  
3 piece of property, and they produce excellent long-term  
4 carbon offsets. So all I could urge you to consider as  
5 you go forward in your deliberation is:

6           One, this isn't an area that's in your purview.

7           Two, the issues related to greenhouse gas and AB  
8 32 and viable cost effective offsets, you will have many,  
9 many industries of this state very, very, very difficult  
10 straits in two years if there aren't voluntary protocols  
11 to produce offsets like the ones in this program.

12           ACTING CHAIRPERSON RIORDAN: Thank you, Mr.  
13 Murphy.

14           Okay. Jim Stewart.

15           MR. STEWART: Hi. I'm Jim Stewart representing  
16 the Sierra Club of California, specifically staff member  
17 Michael Endicott. I'm the co-chair of the State of  
18 California Sierra Club's Global Warming Committee, and I  
19 want to say that the Sierra Club is, of course, very much  
20 in favor of everything in this protocol, except for this  
21 so-called even-aged management provision.

22           And I'm really very disappointed in whatever  
23 process -- Gary Gero is a great guy, and we're really

24 privileged to have him working on these important  
25 projects. But somehow his staff or his committees or

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168

1 whatever succumbed to this kind of argument that you've  
2 been hearing from the timber industry.

3           And, I mean, this is embarrassing for you guys.  
4 Here you are, faced with approving basically something  
5 that says here in paragraph 3.9 that a practice that when  
6 the recently even-aged product has risen to -- in other  
7 words, the clearcut stuff has risen to a height of five  
8 feet, then we can just cut down the next one, right. And  
9 then the next one after you get to the -- I mean, this is  
10 ridiculous.

11           And they claim that over 100 years this thing is  
12 going to even out, even though we clearcut it and we got  
13 rid of all that carbon and all that wonderful soil and the  
14 water ran off and all that sorts of thing. Over the  
15 100 -- I'm sorry to say I don't think we have 100 years.  
16 Our issue now is immediate climate change. If we're still  
17 around in 100 years, that would be just great.

18           But you all know that the Siberian methane is  
19 about to go. And when that goes, we're in the run-away  
20 feedback situation. We've got to save every single pound  
21 of carbon we can in the next 20 years. We can't allow any

22 clearcutting. And especially you guys having clearcutting  
23 as a part of a greenhouse gas emissions protocol; I would  
24 say take that paragraph 4 of here and say to clarify the  
25 language, delete that section 3.9 and get rid of it right

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169

1 away.

2 Thank you very much.

3 ACTING CHAIRPERSON RIORDAN: Michelle Passero.

4 MS. PASSERO: Michelle Passero with the Nature  
5 Conservancy.

6 We would like to thank the State, the Forest  
7 Protocol Work Group, the Registry, and the number of  
8 stakeholders for their leadership and engagement on this  
9 very important issue.

10 Our organization believes its critical to include  
11 forests and natural systems to reduce greenhouse gas  
12 emissions. They're certainly a very important factor in  
13 regulating our climate, and California really has been in  
14 the lead on this issue nationally and globally.

15 TNC has been a member of the work group for the  
16 past few years in this update process. I personally have  
17 been involved in this protocol process since its inception  
18 when the legislation was being drafted.

19           Our organization has been involved in developing  
20 and designing forest-based reduction projects for the past  
21 15 years. A significant effort, as you've heard from a  
22 lot of people, has been and continues to be invested in  
23 these protocols and their ongoing improvements.

24           We therefore do support adoption of these  
25 protocols for voluntary purposes. We also support ARB's

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170

1 resolution and the Registry effort to provide  
2 clarification on the harvest restriction language that's  
3 been discussed.

4           We also think it may be helpful to have a  
5 check-in maybe a year from now, a progress report, with  
6 respect to the update of the protocols and any of  
7 technical pieces that have been on the Registry's punch  
8 list that I think they're going to present to the Board in  
9 October.

10           This is an evolving area. How do we best address  
11 global warming? And I think by nature this means that we  
12 have to learn by doing, and we will need to make  
13 adjustments along the way. And that has been the case  
14 with the forest protocols and certainly be the case with a  
15 number of other sectors.

16           I think it's important to keep moving in this



17 effort to remain a leader and really set a high bar  
18 nationally, and we have been doing that. We have a  
19 stronger track record, and we believe we should continue  
20 to do that. Thank you.

21 ACTING CHAIRPERSON RIORDAN: Thank you very much.

22 Dr. Balmes would like to ask a question of the  
23 speaker.

24 BOARD MEMBER BALMES: So the Nature Conservancy  
25 is an environmental group. I'm a member. I very much

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171

1 appreciate the work that the Conservancy has done over the  
2 years to try to conserve our forest. When you heard  
3 testimony about even-age management and clearcutting,  
4 what's -- you're a member of the work group. What's your  
5 reaction to that?

6 MS. PASSERO: I think and certainly respect our  
7 environmental colleagues that have raised this issue. And  
8 in terms of accounting for greenhouse gas reductions, we  
9 need to look at the baseline that's been proposed in the  
10 protocol and the accounting measures relate to  
11 additionality and permanence. And so irrespective of the  
12 civil cultural techniques that are employed and if those  
13 stocks reported annually increase over time, those will be

14 certified as reductions. And that is the focus of the  
15 protocols.

16 I think there are a variety of reasons why we may  
17 use either even-aged or uneven-aged selection management.  
18 And I think our organization looks even outside of  
19 greenhouse gas reductions for biodiversity and habitat  
20 value. I think that's where some of the debate lies.

21 But in terms of the integrity of these protocols,  
22 I think it does come down to whether or not we did the  
23 right drafting and rules relative to baseline and how we  
24 measure that over time. I think that's going to be the  
25 real indicator of whether we got this right. So that's

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172

1 where I think we have -- if there are progress reports and  
2 check-ins in the future, I think we can look back and say  
3 did we do this the right way. And I think we've really  
4 have put a lot of good work into this.

5 And I do just believe that those limitations that  
6 are in there do set a higher bar outside of California.

7 ACTING CHAIRPERSON RIORDAN: Any other questions  
8 for this speaker?

9 That concludes those who have signed up to speak  
10 under public comment. Let me go back to the staff for a  
11 moment. Maybe they would like to make any concluding

12 remarks, and then I'll open it up to the Board for  
13 questions.

14           DEPUTY EXECUTIVE OFFICER TERRY: Just one point  
15 of clarification, and Ms. Michelle Passero just alluded to  
16 it. The baseline and additionality requirements that are  
17 fundamental to all of the protocols, they rely on the  
18 existing regulatory requirements. And so the protocol  
19 that the Board adopted two years ago relies on the  
20 regulatory requirements that are in place under the  
21 California Forest Practices Act. So even if the Board  
22 were not to act on this today, that small amount of  
23 clearcutting -- I'll use their word -- is allowed under  
24 California law and it is allowed under the current  
25 protocol. And so this addition really addresses a

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173

1 limitation on activities outside of the state of  
2 California.

3           PTSD CHIEF MURCHISON: If I could add one more  
4 point to that.

5           In order to qualify the project, you must have to  
6 maintain or increase the carbon for your project. So you  
7 can't result in a net decrease and qualify as a project.  
8 So it will be a benefit in that regard in that we'll have

9 more sequestration.

10 ACTING CHAIRPERSON RIORDAN: Ms. D'Adamo, do you  
11 have a question?

12 BOARD MEMBER D'ADAMO: Well, did you --

13 ACTING CHAIRPERSON RIORDAN: Mr. Goldstene, I  
14 don't know if you wanted to say anything.

15 EXECUTIVE OFFICER GOLDSTENE: No. Lynn said what  
16 I was going to say.

17 ACTING CHAIRPERSON RIORDAN: Okay. Ms. D'Adamo.

18 BOARD MEMBER D'ADAMO: Well, first of all, I just  
19 don't like clearcutting, and I have to say that. So I'm  
20 very uncomfortable with -- just my gut reaction is I'm  
21 very uncomfortable with these protocols. But I'm trying  
22 to be mindful of what one of the witnesses said. I  
23 believe it was the gentleman from Sierra Pacific  
24 Industries, that there are a number of regulatory bodies  
25 and stakeholder groups that are outside the normal process

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174

1 that we work on here that know this issue very well. And  
2 so I do want to be respectful of our sister agencies and  
3 the stakeholder process.

4 Having said that, I'm trying to see if there's  
5 some way that we can develop sort of a gold standard here,  
6 because the way I view these protocols is eventually

7 they're going to be used as a mechanism for offsets. And  
8 so regardless of what the current practice is out there, I  
9 think that if businesses are going to develop a system  
10 where they get credits and get paid for what they're  
11 doing, what's wrong with asking them to do more? So  
12 that's again my gut reaction.

13           So my question to staff is -- maybe you could  
14 help me with this, Ms. Terry. You're saying these  
15 protocols are all founded on the establishment or  
16 recognition of an existing regulatory framework. And so  
17 is this the end of the story for us? Or can we at a later  
18 point after we adopt cap and trade or part of our adoption  
19 of cap and trade insist on a higher standard for forestry  
20 or whatever industry the protocols apply to?

21           DEPUTY EXECUTIVE OFFICER TERRY: Good question.  
22 And we wanted to be very clear that this is protocol for  
23 voluntary actions and that the Board's approval today is  
24 restricted to that arena and that for purposes of cap and  
25 trade, the Board will consider the rules of the game in

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175

1 terms of offsets that may be brought into the system. And  
2 so, yes, those kinds of criteria will be developed going  
3 forward as part of the cap and trade rule development

4 process.

5 BOARD MEMBER D'ADAMO: Well, I don't know. Maybe  
6 we need to hear from other Board members here. But  
7 whether we bring this back for further review, I do  
8 understand that there is a strong sense out there that we  
9 have some certainty and we move forward. I understand and  
10 appreciate that. But maybe some sense of the Board to  
11 come back, whether it's by way of a report or preferably  
12 when we come back and adopt cap and trade, that we direct  
13 staff to consider a higher standard for forestry practices  
14 before they can participate in an offset program.

15 ACTING CHAIRPERSON RIORDAN: Yes, Dr. Balmes.

16 BOARD MEMBER BALMES: Well, I have a technical  
17 question/request of staff for the future, unless somebody  
18 can give me the answer now.

19 So I've heard competing claims about how much  
20 carbon is released with the soil disturbance of  
21 clearcutting as part of even-aged management. And on one  
22 hand, Mr. Murphy said that only applied to tropical  
23 forests. But written material from the Center for  
24 Biological Diversity took issue with that and said quite a  
25 bit of carbon was released with the soil disturbance

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1 involved in clearcutting. And as a scientist, I'd sort of

2 like to see the data. So I don't know if that's something  
3 we can get in the future, or maybe somebody knows the  
4 answer now.

5 DEPUTY EXECUTIVE OFFICER TERRY: Well, with  
6 certainty, we don't know the answer. This topic of  
7 accounting and forestry is so incredibly complicated. The  
8 science is evolving very quickly.

9 And, in fact, we are having a symposium on  
10 October 19th to look at accounting and bringing academics  
11 and others together. So we will put this on our study  
12 list and see how far we can get and provide you whatever  
13 preliminary information is out there.

14 ACTING CHAIRPERSON RIORDAN: Dr. Sperling.

15 BOARD MEMBER SPERLING: So as another ignorant  
16 person trying to understand what's going on here, as I  
17 listened, what we're adopting are protocol for giving  
18 credits for various -- carbon credits for forestry  
19 practices.

20 Now apart from that, there's a completely  
21 different set of regulatory rules that deal with  
22 environmental protection. And we're not saying anything  
23 about that. Those are binding.

24 And then there's another issue about getting the  
25 numbers right in terms of how much credit, whether there

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1 is, as Professor Balmes said, obviously when you disturb  
2 the soils, we've learned from the low-carbon fuel standard  
3 and indirect land use discussion that there is a lot of  
4 carbon released from the soil when you perturb it and so  
5 on.

6           So it seems like there's three parts to this.  
7 And, you know, you want to get the science right in terms  
8 of getting the credits correct. You want to make sure  
9 that the land is protected. But we're not -- you know,  
10 but here we're just setting up the protocol. So whether  
11 you know -- if there's this so-called clearcutting -- I  
12 guess I don't completely understand clearcutting. Isn't  
13 clearcutting a pretty normal practice? You have pulp  
14 plantations and Christmas tree plantations.

15           But, anyway, I won't digress into that. So I  
16 guess I don't understand really why this needs to be  
17 controversial if we're just creating a set of protocol for  
18 giving carbon credits and taking a first stab at  
19 quantifying them, but not saying anything about the  
20 environmental impacts or -- I mean, if there's practices  
21 that are environmentally bad, they are environmentally  
22 bad. And there's lots of water and other environmental  
23 rules to protect it.

24           Am I missing something?

25           ACTING CHAIRPERSON RIORDAN: He's looking at the



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178

1 staff. Does the staff wish to --

2 DEPUTY EXECUTIVE OFFICER TERRY: I think you've  
3 grasped the complexity of the situation, both technical  
4 and regulatory and voluntary.

5 BOARD MEMBER BALMES: Pretty good for a  
6 transportation engineer.

7 EXECUTIVE OFFICER GOLDSTONE: To Ms. D'Adamo's  
8 point, when we come back to the Board on the cap and trade  
9 rulemaking sometime next year, the issue generally of  
10 offsets will be an issue we will have to spend time on and  
11 work through for purposes of compliance with the rules as  
12 opposed to the voluntary.

13 BOARD MEMBER SPERLING: And following up on it, I  
14 understand in the Copenhagen agreement, you know, in  
15 December, they're going to be taking further action on  
16 internationally and how to deal with forestry. And I  
17 presume that will also be relevant to anything that we do  
18 in the future. Is that correct also?

19 DEPUTY EXECUTIVE OFFICER TERRY: That is right.  
20 And I believe there will be some good discussion of this  
21 topic at the Governor's summit next week as well.

22 ACTING CHAIRPERSON RIORDAN: Ms. Berg, and then  
23 Supervisor Yeager.

24 BOARD MEMBER BERG: Thank you.

25 On the reference to the 100-year projects that

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179

1 one of the speakers made, my understanding was that the  
2 100 years had to do with providing the carbon offsets  
3 rather than approving a project that might be questionable  
4 and be able to go on for 100 years.

5 MR. WINEGAR: Under the protocol, all reductions  
6 that are accredited and verified by the Reserve have to be  
7 maintained for 100 years. So the projects can receive  
8 credit for a period of 100 years. But after the final  
9 credits have been issued, those would also have to be  
10 maintained for at least 100 years. That's the obligation  
11 for how long a forest owner has to essentially continue to  
12 monitor and verify those lands. And if reversal happens,  
13 it would be addressed through one of the two mechanisms we  
14 discussed, depending on if it's avoidable or unavoidable.

15 BOARD MEMBER BERG: So the 100-year time frame is  
16 to guarantee the carbon credit?

17 MR. WINEGAR: That's correct. And also the  
18 project owner's obligation for how long they're entering  
19 into the agreement. By entering into a project contract,  
20 they're agreeing to maintain those reductions for 100  
21 years.

22 BOARD MEMBER BERG: Thank you very much.

23 ACTING CHAIRPERSON RIORDAN: Supervisor Yeager.

24 BOARD MEMBER YEAGER: Yes, thank you.  
25 My first comment, Mr. Goldstene, is I know that I

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180

1 and other Board members were briefed on this item. I was  
2 briefed on Monday, and this whole topic never came up, the  
3 controversy that we're facing now. And I don't think -- I  
4 think I got my first e-mail on this Tuesday afternoon  
5 which generated many of the conversations. And even in  
6 the staff report that we heard just moments ago, this  
7 issue was never really even discussed or brought up.

8 And I just would encourage staff, the more lead  
9 time we have on these things when there is going to be a  
10 controversial item, just to make sure it's brought to our  
11 attention so we're not up here trying to figure this all  
12 out.

13 I don't know when you were all apprised of the  
14 issue and the push-back on it. But it seemed like maybe  
15 you were aware of it and it just wasn't mentioned to some  
16 of us. So that would just be very helpful.

17 And I think all of us -- like all of us -- I'm  
18 going to feel a little uncomfortable regardless of how I  
19 vote on this. I understand there is a need to take action  
20 today, and I appreciate that.

21           But I didn't know if there was an opportunity to  
22 clarify the language or explain it further after our vote  
23 in either a public way or in the protocol itself. It does  
24 seem again that -- I'm not sure whether it's a  
25 misunderstanding or just a whole different view on

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181

1 clearcutting, but it seems that for something we're trying  
2 to do for such a benefit, I just worry that with e-mails  
3 and communications that this could all be put in a way  
4 that is showing very negative on us, where, in essence,  
5 that's not what we're trying to do.

6           DEPUTY EXECUTIVE OFFICER TERRY: We can always  
7 add language to the resolution.

8           And I actually think I was mistaken. The  
9 language that reiterates the fact that California forest  
10 practices, law, and regulations must be met should be  
11 added to the resolution. I don't think it's there.

12           There also certainly could be clarifications with  
13 respect to the fact that the protocol doesn't change  
14 anything with respect to clearcutting requirements in the  
15 state of California.

16           BOARD MEMBER YEAGER: I think that would be very  
17 helpful.

18           ACTING CHAIRPERSON RIORDAN: Ms. D'Adamo.

19           BOARD MEMBER D'ADAMO:  Could we go further and --  
20 well, whether it's a resolution or simply a statement from  
21 the Board directing staff to consider a higher standard  
22 with regard to offsets once we adopt cap and trade.  In  
23 other words, we wouldn't be making a decision on it at  
24 this point, but directing staff to consider.

25           EXECUTIVE OFFICER GOLDSTENE:  We can take that

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182

1 direction now.  I don't think you need to add that to the  
2 resolution.

3           ACTING CHAIRPERSON RIORDAN:  Let me just say, Ms.  
4 D'Adamo, to perhaps facilitate that without a motion,  
5 unless I hear otherwise, let me, as Chair representing the  
6 Board, that we ask staff at the time that an item in the  
7 cap and trade discussion if it's brought back to us on the  
8 forestry element that we discuss higher standards versus  
9 the standard that we have here.  And perhaps there be some  
10 incentive to reach a higher standard in a cap and trade  
11 system.  I think that might take care of that from a legal  
12 standpoint.

13           Let's then look at the -- I think we need to move  
14 on -- pardon me.  Dr. Telles, I'm so sorry.  You've got to  
15 raise your hand really high there, because I missed you.

16 I apologize.

17 BOARD MEMBER TELLES: I just had a few questions.

18 Is the clearcutting law, does that apply for private and

19 public lands? Is it the same law or the same management

20 practices? Or is that --

21 MR. WINEGAR: No.

22 BOARD MEMBER TELLES: Is clearcutting done in the

23 national forests?

24 MR. WINEGAR: The California Forest Practice Act

25 only governs private forest lands. The national forest

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183

1 and public forests are governed differently. And it's my

2 understanding that clearcutting is not generally a

3 practice on public lands, but I don't know for sure.

4 BOARD MEMBER TELLES: How many acres of the

5 forests are public lands and how many are private lands?

6 MR. WINEGAR: I'm not sure on the total acreage.

7 It's roughly 50/50 within the state.

8 BOARD MEMBER TELLES: One final comment is that

9 we really are a public health agency. And one of the

10 things which has effected air quality almost more than

11 anything over the last two years has been forest fires

12 last year in June and this year here in Los Angeles.

13 Is there any co-benefit on this or in the future?

14 Can we devise some kind of plan that would have a  
15 co-benefit in helping manage the forests, reducing  
16 greenhouse gases, and preventing forest fires that are  
17 devastating the quality of the air for months at a time?

18 MR. WINEGAR: I think it's something we can look  
19 at further. Right now, under the protocol, a fire -- if a  
20 fire occurs, it's counted as an emission. Right now, it  
21 would be considered an avoidable reversal that's handled  
22 by the buffer pool.

23 But the protocol also recognizes forest owners  
24 can take action to reduce their risk of these things which  
25 decrease the amount they have to contribute to the buffer

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184

1 pool. It's something that could continue to be looked at.

2 BOARD MEMBER TELLES: I wonder if I could ask a  
3 forestry person to answer that question, if there is any  
4 potential co-benefits for managing the forest from a  
5 health point of view, if the forestry people are still  
6 here.

7 DEPUTY EXECUTIVE OFFICER TERRY: I suggest, Dr.  
8 Telles, that we provide you some written answers to that  
9 question, because we don't have the forestry experts from  
10 the department with us today.

11 BOARD MEMBER TELLES: We have a few forestry  
12 private people that I would like to hear their comments.

13 BOARD MEMBER BALMES: While they're coming up, if  
14 they are coming up, I would just say we're not a public  
15 health agency. We're an environmental protection agency  
16 that tries to protect the public health. There's a  
17 difference.

18 MR. MASON: Just answer that question very  
19 quickly. There is obviously co-benefits to appropriate  
20 management of the forest that reduces the risk of wild  
21 fire. There are many methods upon which that can be done,  
22 and they can be quantified as our Technical Committee did  
23 in terms of establishing a risk buffer that is reducible  
24 depending on how those treatments are done that reduce the  
25 risk of wild fire.

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185

1 So, yes, there is an obvious tie between  
2 management that reduces risk, that produces less wild fire  
3 and both net sequestration and less buffer protection in  
4 the protocols, all of which are included.

5 And I might point out the protocol specifically  
6 says in the protocol that all legal regulations, no matter  
7 where you are, must be followed. So there is absolutely  
8 nothing about this discussion that reduces either



9 California's law or anybody else's law. And, in fact, it  
10 raises the law in Oregon, Washington, and the entire rest  
11 of the United States. Clearcut sizes are not limited  
12 anywhere else but in California.

13 ACTING CHAIRPERSON RIORDAN: Thank you.

14 I do think at some point in time, not maybe as a  
15 total public discussion, but if there are from our sister  
16 agencies information, because I know we know -- we all  
17 know this has been discussed in a whole host of forums.  
18 But maybe there is some information that could be sent to  
19 us as Board members so we could have a little bit more  
20 information for our general knowledge. I'm thinking  
21 general knowledge about our forests and forest management.  
22 I think that would be interesting for us to have.

23 And so at this time -- I've got to get back to  
24 what we're doing here. It is not necessary to close the  
25 record, but because it's not a regulatory item. But I do

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186

1 want to bring it back to the Board to look at the  
2 resolution to take some action, please, on this  
3 resolution. So I would entertain a motion, and then we  
4 can have discussion, if need be.

5 BOARD MEMBER D'ADAMO: So moved.

6 BOARD MEMBER BALMES: Second.

7 ACTING CHAIRPERSON RIORDAN: Any further

8 discussion?

9 BOARD MEMBER BALMES: I'd like to say something.

10 ACTING CHAIRPERSON RIORDAN: Dr. Balmes.

11 BOARD MEMBER BALMES: When I met with  
12 representatives of the forestry industry -- and I believe  
13 it was by phone -- and that would be part of my ex  
14 parte -- with Mr. Murphy and Mr. Ryneauson, it was -- I  
15 enjoyed the conversation, and I heard about the two-year  
16 effort to try to get this right.

17 But I did also hear that objections to the  
18 even-age management and clearcutting issue that we've been  
19 talking about so extensively was sort of the environmental  
20 fringe, if you will. And so I was surprised when I got a  
21 letter from Dan Chia, a copy of a letter to Mary Nichols.  
22 Dan Chia is the legislative staff person to the Natural  
23 Resources Committee of the Assembly. And six assembly  
24 members signed the letter asking us to be very cautious  
25 about the even-aged clearcutting section of the protocol,

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187

1 including my own Assembly member, Nancy Skinner --  
2 actually, Dr. Sperling's Assembly member as well and Jerry  
3 Hill, former member of the Board.

4           So I've appreciated the discussion today about  
5 that. I just wanted to say that some elected  
6 representatives of our state express concern about that  
7 feature of the protocol. So it wasn't just fringe  
8 environmental groups, like the Sierra Club.

9           ACTING CHAIRPERSON RIORDAN: Supervisor Yeager.

10          BOARD MEMBER YEAGER: Yes. I don't know if part  
11 of the motion needs to be the clarifying language so that  
12 this is better understood or whether staff will just go  
13 ahead and include that --

14          ACTING CHAIRPERSON RIORDAN: I think it's assumed  
15 that's part of it.

16          EXECUTIVE OFFICER GOLDSTENE: Right. That's  
17 assumed in your motion. But we may want to review what it  
18 is that you want to make sure that is there, without  
19 wordsmithing it, the general intent is on this issue.

20          ACTING CHAIRPERSON RIORDAN: The removal from the  
21 position it's in now to a separate position so it's not  
22 misunderstood.

23          BOARD MEMBER BERG: As well, I'm hearing that the  
24 existing or all State and federal rules apply and within  
25 California that we're upholding the standards of

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1 California.

2           ACTING CHAIRPERSON RIORDAN: And the law of  
3 California and the regulations of California. All right.

4           Any further comment? Hearing or seeing none, all  
5 those in favor of the motion signify by saying aye.

6           (Ayes)

7           ACTING CHAIRPERSON RIORDAN: Opposed, no.  
8 Motion is carried.

9           I want to say just a brief word about the  
10 process. The process was long and arduous. I read the  
11 list of those who participated. I hope that, Mr. Gero,  
12 you'll thank those people on behalf of the Board. I  
13 really appreciate it came about the way it did.

14           And I do have some confidence for those of you  
15 who are a little bit concerned. I think when you have the  
16 Nature Conservancy, the National Resources Defense Council  
17 participating and they are supporting, I have a pretty  
18 high comfort level, because I have the greatest respect  
19 for those two organizations.

20           So I do thank everybody who has participated, but  
21 I know that the process was a long and arduous one, and I  
22 think California will be served by this voluntary effort.  
23 And I appreciate it very much. Thank you.

24           All right. Moving on, we have one final item as  
25 I recall and we're going to pick up on the item that we

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1 set aside this morning.

2           And, Mr. Goldstene, just in the interest of time,  
3 why don't I just ask you to move right into it.

4           EXECUTIVE OFFICER GOLDSTENE: Thank you. This it  
5 09-8-9.

6           As you recall during the open comment period at  
7 the July 23rd Board meeting in San Diego, witness offered  
8 testimony about ARB's enforcement program. Following this  
9 testimony, you instructed me to develop a plan to respond.  
10 So I'm reporting back to the Board as requested.

11           On September 10th, a notice of the workshop on  
12 ARB's enforcement program was distributed via e-mail  
13 through the ARB list serves and posted on ARB's web page.  
14 Stakeholders were also contacted by phone and e-mail.  
15 This workshop will be held in Sacramento on October 12th.

16           The purpose of the workshop is to discuss our  
17 enforcement policy and to get input from as many  
18 stakeholders as possible.

19           We're hoping that the workshop will allow us to  
20 explore ways to achieve higher levels of compliance,  
21 expedite settlements, prioritize actions, and minimize any  
22 economic advantage from people who are violating our  
23 rules.

24           And so I just wanted to make sure that the Board  
25 was aware that we were following up on that. And we're,

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190

1 of course, happy to answer any questions you may have now.

2           ACTING CHAIRPERSON RIORDAN: Okay. Are there any  
3 questions for Mr. Goldstene?

4           No. Okay. I do have some people who are wanting  
5 to speak on this particular item. Are we ready for that?

6           EXECUTIVE OFFICER GOLDSTENE: Sure. You have a  
7 list.

8           ACTING CHAIRPERSON RIORDAN: I have the list. So  
9 here we go. Fred -- you know, from Terra Trucking -- I  
10 can't pronounce your last name correctly. I know it. You  
11 just come forward, because you're our first speaker.  
12 Fred. He left, is that what happened? Okay.

13           How about Morgan Wyenn from the National  
14 Resources Defense Council?

15           MS. WYENN: You were close. Thank you for the  
16 opportunity to speak at this time.

17           My name is Morgan Wyenn here representing the  
18 Natural Resources Defense Council.

19           NRDC supports CARB maintaining the status quo  
20 penalty policies, and we strongly believe that CARB should  
21 not adopt the changes proposed by industry trade groups.

22           CARB should not forgo its authority to regulate  
23 based on strict liability by incorporating levels of  
24 negligence. Whether a violator took a reasonable or  
25 prudent precautions does not mitigate the fact that some

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191

1 harm occurred.

2 CARB's use of strict liability is essential for  
3 full enforcement of the law. The California Legislature  
4 granted CARB strict liability enforcement for good reason.  
5 Watering down CARB's strict liability authority is not  
6 necessary, as CARB can already take mitigating factors  
7 into account.

8 CARB should not be forced to use the  
9 administrative process at the exclusion of pursuing  
10 judicial enforcement. Admitting CARB's enforcement into  
11 the administrative process would weaken CARB's ability to  
12 fully enforce the law.

13 Further, to limit enforcement to the  
14 administrative process would draw down CARB's enforcement  
15 resources, because CARB would have to pay for the  
16 administrative law judges in the administrative hirings.  
17 Such administrative hearing would consume more overall  
18 judicial resources than would be saved, as violators have  
19 the option to appeal to superior court. CARB should have  
20 the discretion to enforce the law against the wide range  
21 of violators, both big and small.

22 Limiting discretion is not necessary. CARB

23 already can take mitigating factors into account. The  
24 deterrent power of the law is weakened if CARB  
25 systematically only enforces against large polluters.

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192

1 California is a recognized leader in air quality  
2 enforcement and should retain its independence to pursue a  
3 leading enforcement program. Adopting the U.S. EPA scheme  
4 would weaken CARB's enforcement power.

5           Finally, the financial amount of the penalty  
6 should not be just a replica of the U.S. EPA matrixes.  
7 The U.S. EPA matrixes are weaker than California's. NRDC  
8 looks forward to further discussing this issue at the  
9 October 12th workshop.

10           Thank you for your time.

11           ACTING CHAIRPERSON RIORDAN: Thank you very much.

12           Lee Brown followed by Jim Stewart.

13           Lee Brown?

14           Jim Stewart.

15           MR. STEWART: Hi. Jim Stewart from the Sierra  
16 Club, representing Bill McGavern.

17           And as you well know, Bill and the 200,000  
18 members of the Sierra Club have been so supportive of your  
19 strict regulation policy. I mean, you're our only hope.

20 We're depending upon you to stand the ground and to keep



21 our air clean and to move us toward climate sanity.  
22           And so we just want to urge you to keep up the  
23 good work and don't allow any weaknesses in enforcement.  
24 And I think we'll be there on October 12th to keep  
25 pushing. We appreciate the good job you've done so far.

□

193

1           ACTING CHAIRPERSON RIORDAN: Thank you.  
2           Clayton Miller.  
3           MR. MILLER: Good afternoon, Madam Chair, members  
4 of the Board.  
5           My name is Clayton Miller, and I represent the  
6 Construction Industry Air Quality Coalition.  
7           I'm here just to take a moment to acknowledge  
8 that CIAQC is encouraged that your staff has scheduled a  
9 public workshop to discuss the enforcement program.  
10           CIAQC is a member of the diverse coalition of  
11 stakeholders that came before you on July 23rd at the  
12 hearing down in San Diego. And since that time, the  
13 workshop has been scheduled. Unfortunately, it's on a  
14 federal holiday, so I hope that doesn't prevent some  
15 people from making it. But we think at least there's a  
16 good start.  
17           We look forward to participating in the workshop

18 and sincerely hope that during this process and in the end  
19 it can result in some real and some effective changes that  
20 benefit both the regulated community and the agency.

21           We don't think that the intent is to take away  
22 any enforcement tools and hope that in the end the process  
23 is one of transparency and consistency and something that  
24 the federal policy is instructed on.

25           So I want to thank you for your interest in this.

□

194

1 And also thank you for the opportunity to speak. Thank  
2 you.

3           ACTING CHAIRPERSON RIORDAN: Thank you.

4           And, Clayton, could you do something for us?  
5 Obviously it's very important the attendance at the  
6 workshop is a good one. And we hope that through your  
7 organization you can get the message out. We've tried to  
8 reach out to as many people as possible and we cast a very  
9 wide net. But sometimes they see a note from their  
10 association and they'll open it and, you know, read it.  
11 So if you could get the message out. And I'm assuming  
12 you'll be there to participate

13           MR. MILLER: Yes, I will.

14           ACTING CHAIRPERSON RIORDAN: Very good. Those  
15 are all the speakers I have on this particular item.

16 Mr. Goldstene, anything further?

17 EXECUTIVE OFFICER GOLDSTENE: No. That's all we  
18 have for today. Tomorrow's meeting starts at 8:30.

19 ACTING CHAIRPERSON RIORDAN: Okay. And Board  
20 members, thank you for your patience and all. And I'm  
21 very pleased to say we are finished before 3:00 p.m. and  
22 we'll see everybody here at 8:30 tomorrow morning, traffic  
23 allowing. So thank you very much.

24 (Thereupon the California Air Resources Board  
25 adjourned at 2:56 p.m.)

□

195

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13                   IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 3rd day of October, 2009.

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22                                   TIFFANY C. KRAFT, CSR, RPR  
23                                   Certified Shorthand Reporter  
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