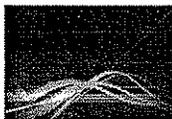
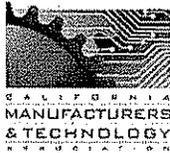


09-10-8  
Jay McKeeman

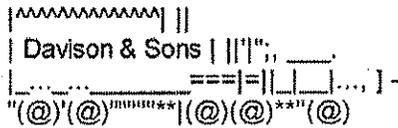
Associations



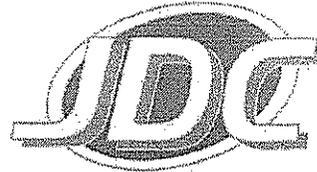
Santa Barbara Technology and Industry Association  
"Promoting our quality of life through job prosperity"



Businesses



CW Trucking



The Honorable Arnold Schwarzenegger  
Governor, State of California  
State Capitol  
Sacramento, CA 95814

Subject: Serious Concerns Regarding Air Resources Board Science Process and Opportunity for Open Debate

Dear Governor Schwarzenegger:

On November 19, 2009 Dr. John Telles, appointed by you to the Air Resources Board, raised serious ethical and substantive issues regarding a key report used in approving the most expensive regulation adopted by CARB to date, the On Road Heavy Duty Vehicles Rule (Statewide Truck and Bus Rule). Dr. Telles both publically and in a letter to CARB Legal

Counsel, asked that the Truck Rule be set aside due to ethical and legal implications surrounding the development of that report and the qualifications of a key individual who authored the report. A copy of the transcript from the November 17<sup>th</sup> hearing is included for your information.

In summary, the issues raised by Dr. Telles may indicate a serious breach in ARB review of employee qualifications, and more disturbingly, indicate that Board members were not informed of questions surrounding the author's qualifications prior to the hearing. To that end, we are requesting you to direct that ARB set aside the Statewide Truck and Bus Rule until questions surrounding the validity of the information in the report are openly and completely aired.

This regulation has the potential to put many small and medium-sized businesses out of operation due to its expense. In addition, significant problems and issues regarding the so-called \$2 billion assistance package have arisen, further heightening the probability that small firms, especially, may have not any option but to cease operations. It is entirely appropriate to set this regulation aside and allow constructive, public debate on the scientific underpinning of the Board's decision. It would also provide time to revisit the economic assistance package and determine its real value in assisting timely environmental compliance. In the end, delay of the regulation will not adversely affect air quality as the economic downturn has already significantly reduced diesel emissions through reduced vehicle miles traveled.

We are concerned that recent statements by other Board members indicate that the science on diesel emission health effects is uniformly accepted and absolute. We are aware of a number of eminently qualified scientists with strong and compelling arguments suggesting that the CARB health effects from diesel emissions are dramatically overstated. We see no downside to allowing a healthy, open debate on the diesel science studies. And given Dr. Telles' comments and concerns, we suggest such a direction is necessary to assure public confidence in your agencies.

Sincerely,



Jay McKeeman,  
CIOMA Vice President, Government  
Relations & Communications



Mike Rogge  
CMTA Policy Director, Environmental  
Quality



Lee Brown  
CDTOA/AADT Executive Director



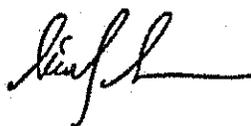
Rob Neenan  
CLFPA Vice President, Government Affairs



Chris Zanobini, Executive Vice President,  
California Grain & Feed Association



Les Clark, Executive Vice President  
IOPA



Michael D. Shaw  
Legislative Director, NFIB

*Vincent McLeod*

Vincent M. McLeod III, President,  
Budway Enterprises

*Francisco Hernandez*

Francisco Hernandez, Owner/Operator  
CW Trucking

*Judy DeSigio*

Judy DeSigio, Controller  
J. DiSigio Construction



Gail Delihant  
Director, CA Government Affairs  
Western Growers Association



Joe Armendariz  
Executive Director, Santa Barbara  
Technology and Industry Association



Thomas Davison,  
President, Davison & Sons Trucking

*Steve Pivovarovoff*

Steve Pivovarovoff  
President, General Waste Disposal



Brent Moser, President  
LA Party Bus

*BWhite*

Bruce White, Vice President  
Three Rivers Trucking

Cc: Board Members, CARB  
Linda Adams, Secretary Cal/EPA  
James Goldstene, Executive Director, CARB

**Transcript of the Statement of Dr. John G. Telles, M.D., member of the California Air Resources Board, at the Board meeting November 19, 2009, regarding the high-level CARB cover-up on the on-road truck rule for the public record.**

Webcast available at

<http://www.cal-span.org/cgi-bin/archive.php?owner=CARB&date=2009-11-19>

**Dr. Telles' statement is at the 4:35 mark in the webcast and is as follows:**

Despite statements made today that there was a known fact that there was a falsification of credentials regarding the methodology report, no one has yet made the comment that the staff and Board Members knew of the falsification prior to the vote and this is what I will be addressing in my comments. I would have expected, at this point, that staff would have made that comment in the public record.

I am going to request, because of ethical and legal implications related to the December 12, 2008 vote on the truck rule, that the truck rule be set aside until we go through a process of relooking at the report of "Methodology for Estimating Premature Death Associated with Exposure to Fine Airborne Particulate Matter in California."

I wish to read now, into the public record, a letter that I wrote to Ellen Peters, chief counsel, which pretty much outlines why I strongly feel about this. The letter is dated November 16, 2009.

My review of events and circumstances preceding the December 12, 2008 vote on the truck rule has revealed documented facts and pertinent information not brought to the attention of the Board prior to the vote on the truck rule.

Key CARB personnel failed to inform the Board and the public of this information.

In CARB's own internal documents this information was deemed to be pertinent. CARB, in an internal document sent to the individual stated: "Your dishonesty regarding your education has called into question the validity of the report "Methodology for Estimating Premature Death Associated with Exposure to Fine Airborne Particulate Matter in California" in which you were the project coordinator and lead author. This report, in turn, supports other controversial and critical regulations adopted by the Air Resources Board." (Dr. Telles refers to an exhibit to support this document).

The methodology report was pertinent to the truck rule because it supports Appendix D (Health Impacts from On-Road Diesel Vehicles) and Appendix E (Health Results Assessment Methodology) which make the fundamental argument for the reason for the rule-making.

This information is material to the vote because I, as a Board Member and perhaps other Board Members, would have moved to suspend the vote.

I believe it is the ethical, if not legal obligation, for the staff and Board Members to inform the whole Board of all pertinent information prior to a vote on state regulations so that a Board Member may make an informed decision when casting a vote.

The following is a brief outline of information that came to my attention on key CARB personnel prior to the vote.

In a letter, dated July 7, 2008, to Governor Schwarzenegger, Dr. Stanley Young, of the National Institute of Statistical Science, stated none of the authors of the draft "Methodology for Estimating Premature Death Associated with Exposure to Fine Airborne Particulate Matter in California" are professional statisticians.

The duty for drafting the response to this inquiry was given to the project coordinator and lead author of the report, the very person who later confesses that he misrepresented his credentials.

In this draft, the lead author falsely claims that he has a PhD from the University of California Davis. This draft letter, dated November 4, 2008, was signed by the Secretary of the California EPA and was sent to Dr. Young. To date, Dr. Young has not received a letter from the California EPA correcting this false claim.

On December 3<sup>rd</sup> and 4<sup>th</sup>, 2008, a professor from UCLA communicated with three CARB Board Members alleging the individual did not have a PhD in statistics from the University of California Davis. At least one Board Member called senior staff at CARB and an investigation was initiated. On December 8, 2008 the Chief of the Research Division asked the individual if he had a PhD in statistics from UC Davis. The individual on the evening of December 10, 2008, confessed to the chief of the research division that he did not have such a credential.

The following day the ARB had convened to deliberate the truck rule. At that time, this Chief informed the Executive Officer, the Chief Deputy Executive Officer, the Chief of Heavy-Duty In-Use Strategies, the Chief of the Mobile Source Control Division, the Chief of the Health and Exposure Assessment Branch and at least one Board Member of the individual's confession. This information, however, was not relayed to the full board.

It was not until nine months later, at the public meeting of CARB in Diamond Bar on September 24, 2009, at the public testimony, raised this issue, that the staff informed the Board, for the first time, that the project coordinator and lead author of the supporting document of the truck rule had falsified his credentials.

At that time staff made no mention of the fact that they possessed this information prior to the vote on the truck rule.

Last week, November 11, 2009, I learned that that the Chair of CARB was also aware of this information prior to the vote. Thus neither the staff nor the Board Chair informed the full board of this discovery prior to the vote. The public, of course, was also not informed.

In a recent personal communication to me from a Board Member who knew at the time of the vote this information was withheld. The Board Member state "I also realized it was wrong not to have informed you and other board members about the situation before we acted on the truck rule and at least give you the chance to decide for yourselves whether to delay was needed."

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

To execute my duties it is imperative that I be informed of all pertinent matters relating to the regulations upon which I will be voting. Based on the foregoing facts documenting that key CARB personnel withheld information from the Board and the public, I believe the legitimacy of the vote may be in question.

The scientific validity of the report is not in question, but rather at issue the fundamental violation of procedure. Failure to reveal this information to the board prior to the vote not only cast doubt on the legitimacy of the truck rule but also upon the legitimacy of CARB itself.

As legal counsel to the Board and in view of your wisdom, experience and knowledge, I seek your opinion in this matter.

Not taking action in this matter seems unacceptable in what appears to be a violation in both ethical and its legal implications; how we handle this challenge will reflect on the future credibility of the California Air Resources Board.

I believe CARB needs to seize the initiative and take steps to protect and preserve the integrity of CARB and its board members' decision-making process.

**End of transcript.**

## ARB Board Member Biographies

John G. Telles, M.D.

Appointed April 2008 by Governor Arnold Schwarzenegger

Dr. Telles has been a cardiologist at the Heart Group Cardiovascular Associates Inc. since 1979, where he also serves as managing partner.

Concurrently serving on the San Joaquin Valley Air Pollution Control District and Air Resources Board, Dr. Telles brings broad practical knowledge of both the health impacts of air pollution and the importance of the agricultural economy to air pollution control decisions at the state and local levels.

He is a member of the American College of Cardiology, American Medical Society, California Medical Society and is former president of the Fresno Madera Medical Society.

Dr. Telles received his B.A. in Chemistry from U.C. Davis in 1971 and M.D. from Baylor College of Medicine in 1974. He completed his Internal Medicine residency in 1977 at the University of Rochester, New York. Dr. Telles also did a cardiology fellowship at UCLA/Harbor General Hospital.

Dr. Telles grew up on a farm in the San Joaquin Valley and now lives in Fresno.

