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September 22, 2009

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Title 17. California Air Resources Board

Agenda Item No. 09-6-5: Notice of Public Hearing to Consider
Adoption of a Proposed AB 32 Cost of Implementation Fee Regulation
and Proposed Amendment to the Existing Regulation for the
Mandatory Reporting of Greenhouse Gas Emissions

Date: September 25, 2009
Time: 8:30 a.m.

Clerk of the Board:

The attached Index of Legal Documents is submitted as part of the comments to be included in the administrative record in Agenda Item No. 09-6-5.

These documents consist of pleadings and related documents filed in a California Public Records Act proceeding in Sacramento County Superior Court, No. 34-2009-80000232. That action culminated in an Order filed September 18, 2009 (Attachment 31 of the Index of Legal Documents).

In addition, this submission includes the documents and indices submitted by CARB in response to the subject requests for public records, in electronic format on the enclosed DVD.

With regard to the Index of Legal Documents, I would like to call the Board's attention, in particular, to the Declaration of Daniel J. Whitney filed August 26, 2009 (Attachment 24), at page 7:17-8:4, and line 7:23-26 ["ARB did not keep hourly

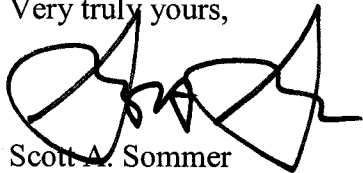
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records of AB 32 implementation and administration work for fiscal years 2007-2008 or 2008-2009. Accordingly, the time spent on such work by ARB employees was estimated by ARB division chiefs for the Initial Statement of Reasons prepared for the Regulation”].

I would also like to call the Board’s attention to the Order (Attachment 31), page 7, second full paragraph, lines 4-6 [“Viewing this matter in its proper context in relation to the pending rule-making proceeding, in which respondent Board is already under the legal obligation to reveal the factual support for its proposed action...”].

We thank the Board for its attention and consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott A. Sommer", written over a printed name.

Scott A. Sommer