

California Dump Truck Owners Association

11-2-4

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Betty Plowman

April 27, 2011

California Air Resources Board
Clerk of the Board
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Subject: PM2.5 SIP – Why Didn't EPA Calculate a Separate and Exact Cancer Risk from Diesel Emissions if it so Dangerous?

California Air Board Members and Staff:

As an industry totally subjugated to CARB diesel engine emission science and regulations dating back to at least 1998, we are interested as to why the EPA released its National Air Toxics Assessment (NATA) Friday, March 18, and they have not or will not calculate a separate and exact cancer risk from diesel emissions when it is as supposedly deadly as CARB science and researchers claim?

Today, the CARB Board is being tasked with potentially approving a PM2.5 standard that is lower than the existing standard while the federal standard is more than reasonable at this point.

The NATA was interestingly released two days after the CDC made public its annual U.S. mortality report, titled *Deaths: Preliminary Data for 2009*. The NATA report draws on 2005 (six-year-old, pre-recession) data to examine potential health risks from airborne toxic air contaminants (TAC) and vaguely concludes that vehicle emissions – including diesel exhaust – pose “significant” health risks, even though the report added that U.S. industries’ emissions of airborne toxics from industrial and mobile sources fell more than 42% between 1990 and 2005. This is all according to an updated computer database released on March 11 by U.S. EPA.

Our industry has now seen all the epidemiologically studies, even those not favored or cherry picked by CARB. We hold firm that the true studies, especially those specific to California do not support these CARB conclusions. We have to also note that new diesel engines are among the cleanest and greenest – cleaner than even gas engines – and diesel emissions are already heavily regulated to achieve public health goals well into the future. If the EPA with a \$10-billion budget can't scientifically make this conclusion, how did CARB 13 years ago do it? In fact how does CARB justify any of their regulations of diesel emissions when no other state and even the federal governments EPA can't do it?

The EPA assessment is now being looked at closely by our industry. In it, the EPA noted that “all Americans have an increased cancer risk of greater than 10 in a million or 1 in 100,000 because of airborne toxics.” To put that in context, EPA toxics regulations are drafted for substances found to present a cancer risk to greater than 1 in a million. “This means that, on average,” EPA wrote, “approximately 1 in every 20,000 Americans have an ‘increased likelihood’ of contracting cancer as a result of breathing all air toxics (not just diesel emissions) from outdoor sources if they were exposed to 2005 emission levels over the course of their lifetime.” According to this EPA NATA report, this equates to 50 in every million people having an increased “likelihood” of death by diesel emissions related cancer.

Typical of EPA and CARB science, the report does not state whether there is any direct scientific proof that diesel emissions “cause” cancer. According to the CDC report released in late March, there were a total of 1,736 malignant neoplasm's (all cancers) deaths in the U.S. per 1 million in 2009. The EPA's report implies that as much as 3% of the population has an increased likelihood of cancer death caused by “air toxics,” but there is no mention of diesel emissions.

Of course, the CDC does not identify diesel or vehicle emissions as a separate cause or sub-cause of cancer deaths within their report. There are approximately 153 causes and sub-causes of death in this report. Specifically, the EPA report highlighted two substances in vehicle emissions as being particularly dangerous: formaldehyde and benzene, as well as diesel exhaust in general, with its 200-plus components, but never makes a final scientific determination.

Contrary to these exaggerated cancer and death claims coming from EPA, the CDC report showed that life expectancy in the U.S. has hit another all-time high, for the 10th year in a row, up to approximately 78 years and two months. In addition, about 36,000 fewer people died in 2009 compared to 2008, and the infant mortality rate hit a record low of 6.42 deaths per 1,000 live births. This translates to a 3% decrease from the year before. The report also noted that for all three of these primary causes of death, each has decreased from the previous period, some significantly. The primary causes are diseases of the heart, which dropped 3.7%; malignant neoplasm's "cancer," which dropped 1.1%; and chronic lower respiratory diseases, which dropped by 4.1%.

So, why didn't EPA calculate a separate cancer risk in their report from diesel emissions?

The reason, according to the EPA, is that no specific unit risk estimate is available to do so. What, they can not scientifically determine a specific unit risk, but CARB can regulate thousands of businesses here, under the SRP determination that diesel emissions "may" be a toxic air contaminants?

Instead taking the typical non-scientific leap of faith, EPA focused on the effects of diesel soot or particulate matter on respiratory problems and not cancer directly. There are differences, big differences. The report aggressively attacks diesel as an evil substance but does not differentiate between clean, ultra low-sulfur diesel (ULSD) and new technology diesel engines from older diesel formulations and engine technology. It's just all bad, politically speaking! The report awkwardly states that, "EPA has concluded that diesel exhaust is among a variety of substances that 'may' pose the greatest risk to the U.S. population," the agency said.

Greatest risk of what?

Many industry associations, groups, and those most affected by these absurd claims question EPA's calculations. And while EPA did not calculate diesel exhaust's cancer risk, not surprisingly, an environmental group called the Clean Air Task Force (CATF) has – with, of course, the help of CARB.

Yes, the Clean Air Task Force (CATF) combined the confusing NATA data with the diesel cancer risk factor developed by the Hien T. Tran types within the California Air Resources Board (CARB) and found it to be three times greater than the risks of all air toxics tracked by EPA combined. Anyone who has recently dealt with CARB knows it deservedly has no scientific integrity or credibility whatsoever and is far more activism- and survival-focused than science-based. To utilize anything from CARB is absurd.

The Clean Air Task Force (CATF) is a Boston-based nonprofit established in 1996, basically another lobbying nonprofit. Yes, CATF, in their separate study with the help of CARB, found that the average lifetime cancer risk from diesel exhaust to be 159 times greater than EPA's acceptable one-in-a-million cancer risk standard for air toxics.

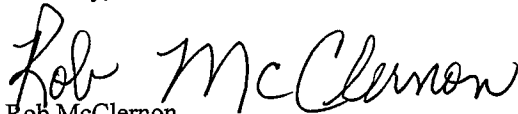
Diesel industry groups are pushing back against the EPA assessment and the environmental group's political science study. The CATF study is so implausible, it is a joke!

Allen Schaeffer, the executive director of the Diesel Technology Forum (DTF), said NATA is based on 2005 (old) data that does not take into account major strides made by the diesel industry to clean up its fuel and engines. "A lot of these [claims] are very retrospective views," he said. "In the case of diesel, it's especially retrospective when you've had so much change so fast." Specifically, Schaeffer pointed to developments since the 2005 diesel engine standards.

New standards for both clean diesel and engine emissions, especially for particulate matter from on-and off-highway vehicles have been significantly reduced, Schaeffer said. Further, new diesel engines have near-zero toxic emissions. He pointed out that EPA failed to calculate a specific risk assessment for diesel exhaust because of the "complexities and uncertainties" of evaluating the toxic values of diesel exhaust.

Industry questions if the EPA, with all its resources and activist brainpower, can't do anything to find the exact premature deaths and health risks, how can some environmental activist nonprofit organization with CARB's guidance do it? They can't of course – it is all junk science endemic of the problems we have within the public health sciences community, especially within the UC School System.

Sincerely,



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CDTOA President

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Subject: PM2.5 SIP Update – True Health Effects Do Not Support Any Increases in PM2.5 Regulations.

California Air Resources Board Members and Staff:

As an industry we continue to suffer through one of the worst recessions since the Great Depression. Trucking volume and utilization within construction is down by at least 50%. While bad for our industry it was been an amazing environmental benefit to the state. If things are not fixed soon, the construction industry will negatively impact employment in this state and the minority communities will continue to bare the greatest burden. In a recently released study by the BIA, *The State of Housing in California*, state housing production or home building peaked in 2005 at 209,000 units and then dropped to a dismal 36,000 by 2009. Today even with some generous estimates, we are not likely to ever see more than 60,000 units per year. The common theme here is that it is all mainly due to environmental regulations tied to growth and businesses.

At least 90% of all construction work in this state today is public work. Today, we are now an industry that totally depends on public funding much like CARB's own budget. The difference is we live in reality and this Board and agency does not.

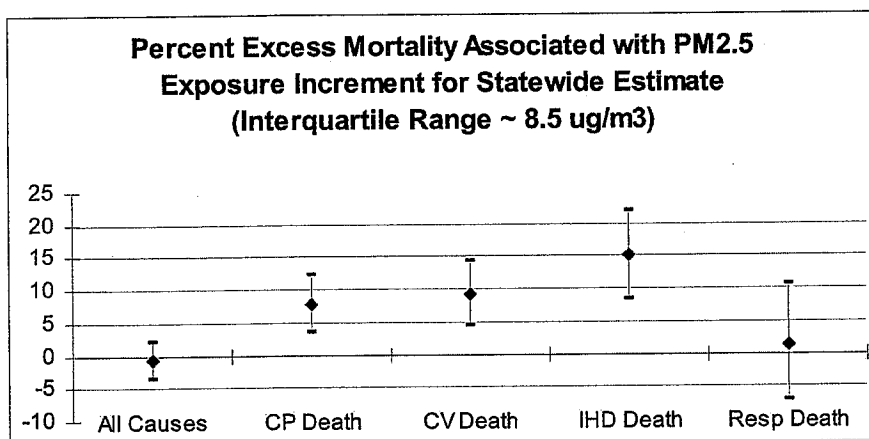
CARB and this Board represents a government agency, whose sole mission has moved from science and public health to promoting public fear and deception about any and everything in the air we breathe. According to CARB/EPA science, there is nothing that is good in our air today, not even the gas we exhale – CO2. The Propaganda never stops. As I was writing this letter, there was a region by region report titled: *State of the Air 2011*, which concluded that "California cities have worst air pollution in U.S." The report also noted that the air is getting better, cleaner.

So even with all our regulations, lost jobs and costs to society – the air is still too filthy? Fewer people believe this today. We hope the Board understands that the "crying wolf" propaganda they help to perpetuate will eventually lead to the demise of this agency and those like it. The rest of the U.S. is closely watching what is going on here, make no mistake.

CARB's agenda to eliminate diesel as a fuel, at all costs utilizing absurd misinformation, deception and propaganda all concerning an important fuel that is now used by over 55% of the new clean vehicles sold in uber-clean Western Europe, is creating a major public PR problem. Scientific critics and those most affected by CARB science with its loose extrapolations from other parts of the U.S., plus the repeated and systematic exclusions from an open and honest debate and whose scientific work is constantly absent from key reports, is unacceptable.

At the CARB symposium in February 2010, a number of issues were raised regarding the lack of proven health effects of PM2.5 on public health. The fact that identifying diesel exhaust from other elements of PM2.5 (such as forest fire and fire ash, dust, sea salt and other manmade and naturally occurring particles) was a guessing game at best. The scientific communities' inability to identify the causal links between fine particle matter and specific health outcomes; and the 2010 admission by the lead investigator of a major CARB-funded study (Jerrett) that when using California-only data, there was no relationship between PM2.5 and premature deaths. Specially, Prof. Jerrett said,

referencing the graph here that, "This is from the statewide study and this is against the interquartile range of about 8.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) of PM.



These are percent increases in mortality and we don't see in the statewide assessment an elevation in all cause mortality in relation to particulate matter." [Jerrett slide here shows about -0.5% for 'All Causes'].

While the people of California allow themselves to be hoodwinked by anything that the fear mongers in the environmental community claim,

industries here had enough of it all and began to question CARB's facts that supported these diesel engine regulations. The construction industry became very suspicious of the large amount of emissions attributed to off-road construction equipment. This was bolstered by a UC Berkeley scientist's observation that the diesel emissions from off-road equipment were highly out of balance with actual equipment use data. The off-road industry commissioned an independent report that ultimately found CARB had over-estimated off-road emissions by well over 340%.

A similar independent study for on-road diesel powered trucks emissions concluded that there may be an over-estimate of 25%-40% on those emissions as well, but staff's unwillingness to share base data for independent review made absolute estimates impossible.

CARB utilized a 2009 Heath Effects Institute Report and 2009 US EPA Integrated Science Assessment of PM2.5 to support their "diesel emissions are bad" conclusion. However, the estimated annual number of "premature deaths" in California attributed to PM2.5 has come down from 18,000 (as per 2006 and 2008 H. Tran Reports) to 9,200 (as per 2010 CARB Report), or 3,500 when only diesel portion of particulates is applied. Unfortunately, the 2010 CARB Report with no identified authors was not the "independently commissioned and reviewed" report pledged by CARB and its Chair in earlier statements and letters.

Most recently we analyzed the report, than chased the links and discovered that using the methods and numbers cited in the 2010 CARB diesel regulatory documents, **only 25 deaths from off road vehicles and 233 deaths from on road vehicles, for a total of 258 deaths per year, will be prevented by the new CARB diesel regulations.** If the California-specific studies, instead of the nationally extrapolated studies are used as the basis for the relationship between PM2.5 and deaths, then NO premature deaths will be prevented by the CARB diesel regulations.

Just this week, the federal EPA has significantly lowered its over-tones to reduce federal PM2.5 standards by issuing a report that recognizes the "incomplete knowledge about diesel emission health effects". They are only suggesting a look at higher standards, and providing ranges of control possibilities.

Further, CARB and AQMD paid for a report (with public funds - \$750,000) that was supposed to provide more justification concerning the health effects of PM2.5. The grant was given to Michael Jerrett, professor of environmental health sciences at University of California, Berkeley's School of Public Health. That report was due in or around March 2010. Little mention of the report's conclusions was available at the 2010 Science Symposium other than what was noted above. And today the report appears to be over 14 months late from its completion date and all attempts to

review the latest progress reports of the grant under the Public Request Act have gone without a response, forcing us to take additional legal action.

And while Prof. Jerrett ignores his public responsibilities as a public employee, just today he was quoted in an article that California has the dirtiest air in the nation, and **"The body of evidence is large enough that if it's not fully evidence of causality, it's certainly strongly suggestive that pollution affects health in many adverse ways."** All just another confusing way of saying that there are no measurable causes of premature deaths associated with our air here today.

If the science of air pollution and diesel emissions was so clear cut and over-whelming, why is there so much deception and unwillingness to share information, data and models by our government agencies like CARB?

Why do you continue to carry on with the same old biased scientific reports, in the face of strong and reliable scientific objections? It only confirms the view that there exists a closed and secretive group within our government today, which has totally disregarded scientific transparency and an open governmental process. It is time for change.

CARB, much like the American Lung Association (ALA) that has targeted politicians who are against regulating greenhouse gas emissions by placing billboards within sight of their district offices and linking climate change with increased childhood asthma, have lost their integrity and purpose. Much like the ALA, CARB now relies on bait-and-switch media tactics concerning premature deaths and health effects of diesel emissions to generate public fear and than support, which will all cost us far more in lost jobs, increased costs of virtually everything we consume and that's even before the real health effects costs for un-and underemployed people here are factored in.

It is shameful that government agencies like EPA and CARB are not really concerned about improving the quality of life here in American. There is no balance here today, and for many in industries that have an environmental footprint, they are competitively doomed.

Today public health based agencies like CARB appear to be far more interested in carving out slices of a shrinking economic pie for themselves than generating true public health gains. As was widely reported last month in a story titled, *"EPA owns the American Lung Association"*, it is a fact that the EPA has paid the ALA over \$20 million in the last ten years, and has paid the ALA many more millions in a symbiotic relationship going back to at least 1990. The EPA-ALA relationship works something like this: EPA and CARB pay the ALA and, in return, the ALA agitates with reports and public fear mongering for more stringent air quality or diesel engine regulations, including in many cases the use of lawsuits. Now it's billboards.

As researcher and author Joel M. Schwartz so eloquently explained in his book: *Air Quality in America: A Dose of Reality on Air Pollution Levels, Trends, and Health Risks* our future is to say the least, is bleak as is the pseudo-science perpetuated by the regulatory agencies we have given so much power to:

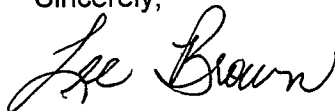
"Not surprisingly, no matter how clean the air, the EPA (and CARB) continues to find unacceptable risks. The EPA and state regulators' powers and budgets, as well as those of environmentalist, depend on a continued public perception that there is a serious problem to solve.

Yet regulators are also major funders of the health research intended to demonstrate the need for more regulation.

They also provide millions of dollars a year to environmental groups, which use the money to augment public fear of pollution and seek increases in regulators' powers.

These conflicts of interest largely explain the ubiquitous exaggeration of air pollution levels and risks, even as air quality has steadily improved."

Sincerely,



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