

CARB/Railroad Statewide 2005 Memorandum of Understanding

SCAQMD Comments

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CARB Workshop

August 31, 2005

Problems with MOU

- Weak substance
- Unenforceable provisions
- Termination clause undermines state & local actions
- Lack of public participation

Legal Authority

- Virtually all MOU provisions could have been adopted by regulation — *without the termination clause*

Termination Clause

- Railroads may terminate their MOU obligations *statewide* if —
 - “*an agency or political subdivision of California adopts or attempts to enforce any requirement addressing the goal of any Program Element*”
- Goals of Program Elements are broad

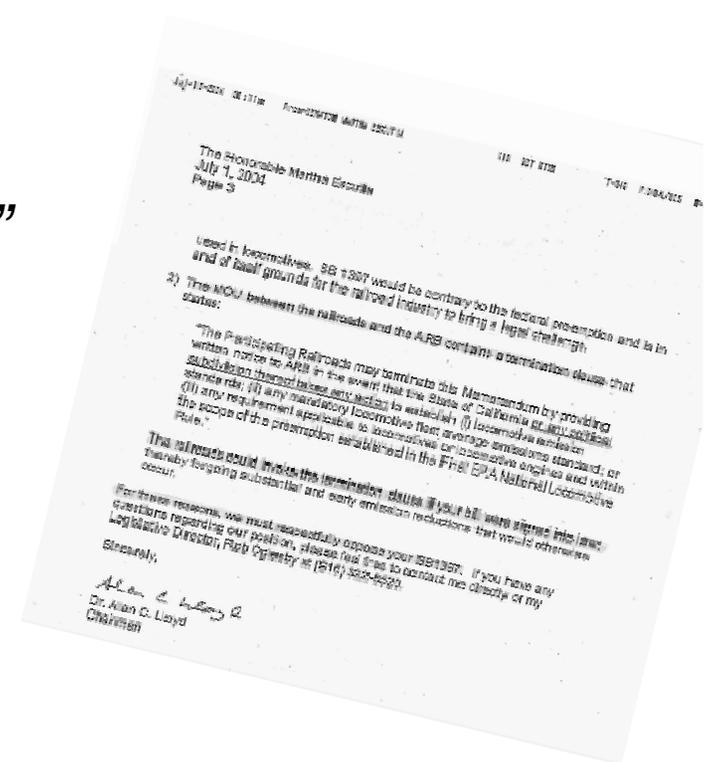
How the Railroads Use the 1998 CARB MOU Termination Clause

- *“Since the adoption of this package in regulatory form could result in the termination of the 1998 ARB MOU . . . the (District’s EIR) analysis must include the environmental impacts resulting from the termination and all cumulative impacts from the termination.”*
 - Rail Comments on Proposed SCAQMD Reg.35 Rules.

CARB Letter to Sen. Martha Escutia in Opposition to SB1397

“The railroads could invoke the termination clause if your bill were signed into law; thereby forgoing substantial and early emission reductions that would otherwise occur.”

“For these reasons we must respectfully oppose your SB 1397”



Potentially Affected Actions

- SCAQMD Idling & Risk Rules
- State Legislation
- Port of Los Angeles *No Net Increase* Measures
- *What's next?*





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Questions

- Can railroads terminate MOU obligations if a city requires new or expanded railyard to —
 - Limit health risk?
 - Use low emission switchers?
 - Create buffer zones?
 - Use low emission trucks to transport containers?
 - Limit locomotive idling?
- If no, what language in the MOU prevents the railroads from terminating?

Our Position

- Rescind MOU
- Most Importantly:
 - Remove “Poison Pill”
 - Support — *don't undermine* — state and local efforts to achieve additional air quality benefits