

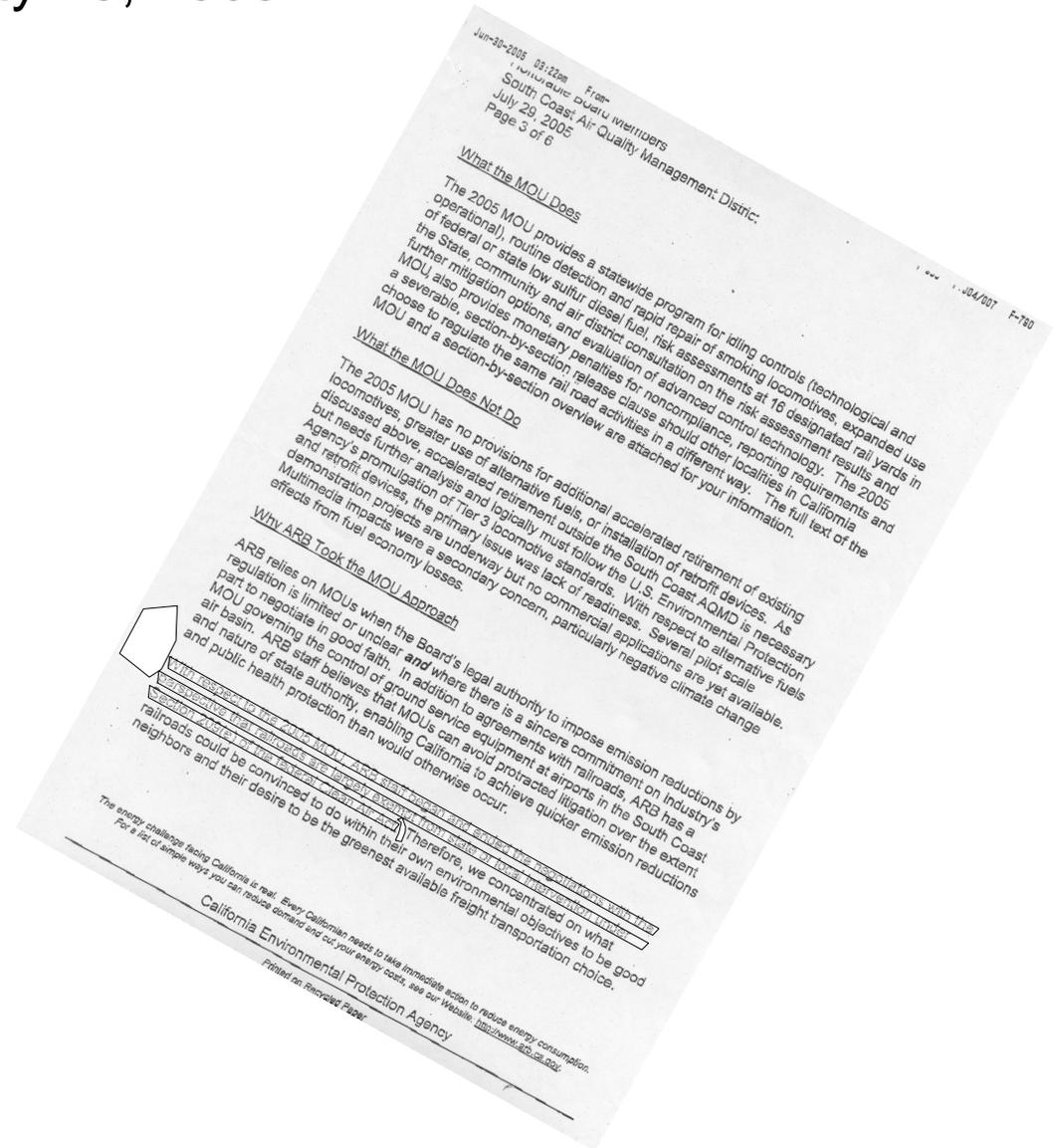
California Air Resources Board Public Consultation Meeting on the Railroad MOU

August 31, 2005

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South Coast Air Quality Management District

Letter from Catherine Witherspoon to the
Members of the SCAQMD Governing Board
July 29, 2005

“With respect to the 2005 MOU, ARB staff began and ended the negotiations with the perspective that railroads are largely exempt from state or local intervention under Section 209(e) of the federal Clean Air Act.”



- Seth Waxman, Solicitor General of the United States, 1997-2001
- Justice Cruz Reynoso, California Supreme Court, 1982-1987
- David Nawi, General Counsel, California Air Resources Board, 1979-1989

Preemption of Local Equipment and Design Requirements

- Clean Air Act §209
- Interstate Commerce Commission Termination Act
- Locomotive Boiler Inspection Act
- California Health & Safety Code §40702

MOU Provisions

- Lower sulfur diesel (§2(a))
- Visible emission standards and enforcement procedures (§3(a) and (b))
- Training and compliance requirements (§1(f), (g), (i); §2(b) and (f); and §3(b)(viii))
- Review, research, reporting, or public information requirement, and designations of responsible parties (§1(c), (g) and (h); §3(c), (d), (g), (i) and (j); §4(b) and parts of §4(a) and (d); §5(b) and part of §5(d); §7; §8; and §9)
- Meet and confer requirements (§3(b)(ix), (e), and (h); §4(c); §4(a) and (d); §5(d); §8; §10(a)(iv) and (b); §11(a))
- Sources of funding to implement the MOU

Preemption of Significant Impairment of Railroad Operations

- Interstate Commerce Commission
Termination Act

MOU Provisions

- Lower sulfur diesel (§2(a))
- Visible emission standards and enforcement procedures (§3(a) and (b))
- Training and compliance requirements (§1(f), (g), (i); §2(b) and (f); and §3(b)(viii))
- Review, research, reporting, or public information requirement, and designations of responsible parties (§1(c), (g) and (h); §3(c), (d), (g), (i) and (j); §4(b) and parts of §4(a) and (d); §5(b) and part of §5(d); §7; §8; and §9)
- Meet and confer requirements (§3(b)(ix), (e), and (h); §4(c); §4(a) and (d); §5(d); §8; §10(a)(iv) and (b); §11(a))
- Sources of funding to implement the MOU