

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

COUNTY ADMINISTRATION CENTER
BOARD CHAMBERS, ROOM 310
1600 PACIFIC HIGHWAY
SAN DIEGO, CALIFORNIA

THURSDAY, MAY 27, 2010

9:00 A.M.

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APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Doreene D'Adamo

Mr. Ronald O. Loveridge

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John Telles

Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Bob Fletcher, Deputy Executive Officer

Mr. Bob Jenne, Assistant Chief Counsel, Office of Legal Affairs

Ms. Lynn Terry, Deputy Executive Officer

Ms. Lori Andreoni, Board Clerk

Mr. John DeMassa, Chief, Modeling & Meteorology Branch,
PTSD

APPEARANCES CONTINUED

STAFF

Ms. Karen Magliano, Chief, Air Quality Data Branch, PTSD

Ms. Elizabeth Melgoza, Air Pollution Specialist,
Particulate Matter Analysis Section, PTSD

Ms. Patricia Velasco, Staff Air Pollution Specialist,
Particulate Matter Analysis Section, PTSD

ALSO PRESENT

Mr. Mark Arax, representing Senator Dean Florez

Ms. Ayron Moiola, Coalition of Labor, Ag., and Business

Ms. Shirley Batchman, CA Citrus Mutual

Mr. Larry Cox

Mr. Manuel Cunha, Jr.

Ms. Linsey Dale, Imperial Cuonty Farm Bureau

Mr. David Hubbard, Ecologic

Ms. Patty Krebs, IEA

Ms. Julie Lester, Environ

Ms. Monique Lopez, Coalition for Clean Air

Ms. Anita Nicklon, Imperial County Residents Environmental
Issues

Mr. Luis Olmedo, Comite Civico

Mr. Mark Osterkamp, Farm Bureau

Mr. Brad Poiriez, Imperial County APCD

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Seyed Sadredin, San Joaquin Valley Air Pollution
Control Officer

Ms. Ema Rose Silva, Vecinos Rio Nuevo

Ms. Olivia Valenzuela, Imperial County Residents Pro
Environmental Justice

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PROCEEDINGS

1

2 CHAIRPERSON NICHOLS: Good morning, ladies and
3 gentlemen. And thank you for attending this meeting of
4 the Air Resources Board.

5 If you're here for something else, you're in the
6 wrong place. But this is the May 27th meeting of the Air
7 Resources Board.

8 And we're assembling. We have a few Board
9 members who are still yet to arrive, but I think we should
10 get started.

11 So we will open our meeting, as we always do,
12 with the Pledge of Allegiance to the flag.

13 (Thereupon the Pledge of Allegiance was
14 recited in unison.)

15 CHAIRPERSON NICHOLS: I feel a little bit uneasy
16 sitting in this chair with the chairman sign in front of
17 me, although I am Chairman of the Air Resources Board.
18 We're sitting in the Board Chambers for the San Diego
19 County Board of Supervisors, and we have with us Ron
20 Roberts, who's hosting this meeting.

21 Do you want to say anything to open the meeting?

22 BOARD MEMBER ROBERTS: Well, I think it would be
23 appropriate to say welcome. We're delighted that once
24 again we have the California Air Resources Board meeting
25 here in San Diego. And of course you brought us good luck

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1 at the Padres game last night. I think if we could
2 guarantee it, the Padres would welcome you back every
3 night, if that would be their fate.

4 I think for many people who are interested in the
5 work of the Air Resources Board, it's good to have you in
6 this part of the state. And I know that some of the folks
7 that are going to be here to testify from Imperial Valley
8 appreciate that they had a shorter distance to come for
9 this hearing. So we're delighted to have you here.

10 We hope you enjoy everything. We've tried to
11 prepare some warmer weather for you.

12 CHAIRPERSON NICHOLS: We appreciate all you've
13 done. And we certainly appreciated the game last night.
14 It was one of the more exciting baseball games I've ever
15 been to. It was great. And the result was good, at least
16 for those of us that are Padres fans. I know there might
17 have been a few others. Anyway, it came out right.

18 So just to briefly announce about the building
19 that we're in, it could become necessary if there was a
20 fire alarm or emergency to evacuate the building, in which
21 case an alarm would come on with flashing lights and
22 instructions. And there is an exit at the back of the
23 chambers, as you can all see, as well as stairs that go
24 outside the building both to the left and the right. So
25 should there be an emergency, please walk to the nearest

1 exit and go down the stairs. Do not use the elevators,
2 because they will be inoperable.

3 Anybody who wants to testify on any item should
4 sign up with the attendant outside the boardroom. We
5 request that you include your name on the speaker card,
6 although it's not required. We do impose a three-minute
7 limit on speakers normally. So we appreciate it if people
8 who have written testimony submit their written testimony
9 and not read it, but just summarize it briefly for us.

10 Our first item this morning is a report on the
11 Imperial County air quality situation and considering the
12 particulate matter, PM10, State Implementation Plan
13 measure. So I think we'll go directly -- oh, sorry. We
14 have to call the roll. Sorry. The clerk will please call
15 the roll.

16 BOARD CLERK ANDREONI: Dr. Balmes?

17 BOARD MEMBER BALMES: Here.

18 BOARD CLERK ANDREONI: Ms. Berg?

19 BOARD MEMBER BERG: Here.

20 BOARD CLERK ANDREONI: Ms. D'Adamo?

21 BOARD MEMBER D'ADAMO: Here.

22 BOARD CLERK ANDREONI: Ms. Kennard?

23 Mayor Loveridge?

24 BOARD MEMBER LOVERIDGE: Here.

25 BOARD CLERK ANDREONI: Mrs. Riordan?

1 BOARD MEMBER RIORDAN: Here.

2 BOARD CLERK ANDREONI: Supervisor Roberts?

3 BOARD MEMBER ROBERTS: Here.

4 BOARD CLERK ANDREONI: Professor Sperling?

5 Dr. Telles?

6 BOARD MEMBER TELLES: Present.

7 BOARD CLERK ANDREONI: Supervisor Yeager?

8 BOARD MEMBER YEAGER: Here.

9 BOARD CLERK ANDREONI: Chairman Nichols?

10 CHAIRPERSON NICHOLS: Here.

11 BOARD CLERK ANDREONI: Madam Chair, we have a

12 quorum.

13 CHAIRPERSON NICHOLS: Thank you very much.

14 Okay. We will now proceed, since we do have a

15 quorum officially, to the Imperial County item.

16 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman

17 Nichols.

18 Today, staff will provide an update on Imperial

19 County's air quality. Despite many unique challenges, the

20 combined efforts of state and local programs have resulted

21 in air quality improvements in the region. The staff will

22 discuss the Imperial County Air Pollution Control

23 District's proposed PM10 State Implementation Plan, which

24 the district adopted in August 2009.

25 Due to our recent letter to EPA which stated they

1 cannot approve the proposed plan, we have modified our
2 staff recommendation. Staff will walk the Board through
3 the plan and the implications of EPA's actions, as well as
4 provide recommendations for moving forward.

5 I'll now ask Mr. Elizabeth Melgoza of the
6 Planning and Technical Support Division to begin the staff
7 presentation.

8 (Thereupon an overhead presentation was
9 presented as follows.)

10 AIR POLLUTION SPECIALIST MELGOZA: Thank you, Mr.
11 Goldstene.

12 Good morning, Chairman Nichols and members of the
13 Board.

14 Today, I will report on air quality in Imperial
15 County.

16 Despite the unique challenges that Imperial
17 County's geography, climatology, and proximity to Mexico
18 poses for air quality, the combined efforts of state and
19 local control programs have resulted in improving air
20 quality in the region.

21 Next, I will discuss efforts underway to further
22 enhance Imperial County's PM10 fugitive dust rules and the
23 2009 Imperial County PM10 State Implementation Plan.

24 Finally, I will summarize how we can move forward
25 to continue to improve air quality in the region.

1 --o0o--

2 AIR POLLUTION SPECIALIST MELGOZA: I will start
3 with an overview of current air quality in Imperial County
4 relative to the federal air quality standards.

5 --o0o--

6 AIR POLLUTION SPECIALIST MELGOZA: Imperial
7 County is located in the far southeastern corner of
8 California. The county is bordered to the north by
9 Riverside County, to the west by San Diego County, to the
10 east by Arizona, and Mexicali, Mexico to the south.

11 Imperial County's population is about 170,000,
12 and the largest cities are located in the center portion
13 of the county. In comparison, the border city of
14 Mexicali, Mexico has a population close to one million
15 people.

16 The principle industries in Imperial County are
17 farming and retail trade.

18 As shown in the photo, most of Imperial County is
19 dry, desert area with little or no population.

20 Imperial County experiences mild and dry winters
21 with extremely hot summers. On average, they receive less
22 than three inches of rain per year.

23 --o0o--

24 AIR POLLUTION SPECIALIST MELGOZA: Due to the
25 rural nature of Imperial County, there are few emission

1 can reach levels of 20 to 40 miles per hour and can extend
2 over a broad region effecting many areas in addition to
3 Imperial. Due to the large amount of open desert land,
4 coupled with limited rainfall, elevated winds can suspend
5 large amounts of dust throughout the county.

6 In 2007, U.S. EPA adopted the exceptional events
7 rule. The rule allows areas to exclude natural events,
8 such as high winds or wildfires, from SIP planning.
9 Because these types of events are not reasonably
10 controllable or preventable, it is appropriate to exclude
11 them from the regulatory requirements. Imperial County
12 experienced three high wind events between 2006 and 2008.

13 --o0o--

14 AIR POLLUTION SPECIALIST MELGOZA: This
15 photograph is an example of a wind event taken on April
16 15th, 2008, in the desert area of western Imperial County.
17 Wind speeds reached 25 miles per hour with gusts as high
18 as 37 miles per hour.

19 --o0o--

20 AIR POLLUTION SPECIALIST MELGOZA: The second
21 cause of PM10 exceedance is transport emissions from
22 Mexico. The impact of transport from Mexico is seen
23 primarily at monitors in Calexico that are within a few
24 miles of the international border. These
25 transport-related exceedances occur during winter when

1 --o0o--

2 AIR POLLUTION SPECIALIST MELGOZA: Best available
3 control measures, or BACM, are a discrete Clean Act
4 requirement to be implemented within four years of an area
5 being designated serious. Imperial County was designated
6 as serious in August 2004. In response, the district
7 adopted its Regulation VIII fugitive dust rules in 2005,
8 in order to provide for accelerated implementation. ARB
9 staff concurred with the rules and forwarded them to U.S.
10 EPA in 2006. U.S. EPA's final action on these rules is
11 still pending.

12 --o0o--

13 AIR POLLUTION SPECIALIST MELGOZA: In February of
14 this year, U.S. EPA proposed a partial disapproval of the
15 BACM rules. In April, the District Board sent a letter to
16 ARB committing to additional rule enhancements. However,
17 in a letter on May 24th, U.S. EPA expressed concerns about
18 the scope of these rule enhancements and stated that
19 additional rule analysis is still needed in order to
20 determine whether they represent a sufficient level of
21 control to meet BACM requirements. U.S. EPA has committed
22 to work with the district to develop the needed rule
23 improvements.

24 --o0o--

25 AIR POLLUTION SPECIALIST MELGOZA: Next I will

1 move into the discussion of the Imperial County PM10 SIP
2 revision.

3 --o0o--

4 AIR POLLUTION SPECIALIST MELGOZA: There are a
5 number of different types of SIP revisions. A SIP
6 revision can represent changes to district rules,
7 emissions inventory, transportation conformity budgets, or
8 to demonstrate attainment of a standard. Requirements for
9 each of these types of SIP revisions are outlined in the
10 Federal Clean Air Act.

11 --o0o--

12 AIR POLLUTION SPECIALIST MELGOZA: The 2009
13 Imperial County PM10 SIP revision contains a number of
14 elements, including an updated emission inventory,
15 transportation conformity budgets, and analysis of air
16 quality between 2006 and 2008.

17 Compliance with federal air quality standards is
18 based on a three-year time period. Thus, 2006 through
19 2008 represented the most recent data at the time of the
20 SIP development. The maximum PM10 concentration during
21 this three-year period is known as the design value.
22 Because high wind events are not controllable, they were
23 excluded from determining the design value. In contrast,
24 the international transport events cannot be excluded.
25 However, the international transport provision of the

1 Clean Air Act provides a mechanism for addressing
2 attainment demonstration requirements. The next few
3 slides will provide you with additional information about
4 the natural event and transport days addressed in the air
5 quality analysis.

6 --o0o--

7 AIR POLLUTION SPECIALIST MELGOZA: As noted
8 previously, three exceedances of the federal PM10 standard
9 due to natural events occurred between 2006 and 2008.
10 While the federal 24-hour PM10 standard is set at 150
11 micrograms per cubic meter, average concentrations in
12 Imperial County are typically below 50 micrograms per
13 cubic meter.

14 In contrast, on the three natural event days,
15 concentrations reached up to 291 micrograms per cubic
16 meter with winds up to 35 miles per hour. On each of
17 these days, there were regional impacts with elevated
18 concentrations in surrounding areas, including Riverside
19 County, Mojave Desert, and Yuma, Arizona.

20 ARB submitted documentation to U.S. EPA in June
21 2008 and May 2009 on these events per the requirements of
22 U.S. EPA's exceptional events rule. However, late last
23 year, U.S. EPA issued a letter that they could not concur
24 with Imperial County's exceptional events based on the
25 information submitted to date.

--o0o--

1

2 AIR POLLUTION SPECIALIST MELGOZA: In addition to
3 the natural events, between 2006 and 2008, there were two
4 exceedances due to transport from Mexico. The highest
5 concentration was 248 micrograms per cubic meter, which
6 occurred on Christmas Day in 2006 in Calexico.

7 Transport events are limited to border sites
8 where the majority of the pollution stagnates due to low
9 wind speeds. In contrast, concentrations in the rest of
10 the county were all well below 50 micrograms per cubic
11 meter. Technical documentation on these events was
12 included in the district's plan following U.S. EPA
13 guidance.

14

--o0o--

15 AIR POLLUTION SPECIALIST MELGOZA: The Clean Air
16 Act includes specific provisions for areas impacted by
17 international transport. If a state can demonstrate that
18 they would have attained the national ambient air quality
19 standard for PM10 by the applicable attainment date but
20 for emissions emanating from outside the United States,
21 certain Clean Air Act obligations are relieved, including
22 the need for an attainment demonstration and penalties
23 resulting from failing to attain the standard.

24

--o0o--

25 AIR POLLUTION SPECIALIST MELGOZA: Due to

1 concerns regarding both the high wind natural event
2 documentation and the BACM rules, in their May 24th
3 letter, U.S. EPA stated they cannot propose approval of
4 the PM10 SIP. Given these concerns, we have revised our
5 staff recommendation and now recommend that the Board take
6 no action on the SIP revision, as submitting the SIP to
7 U.S. EPA would trigger a disapproval process.

8 --o0o--

9 AIR POLLUTION SPECIALIST MELGOZA: The remaining
10 slides in the presentation will walk through the
11 consequences of taking no action on the SIP and how we can
12 move forward from here.

13 --o0o--

14 AIR POLLUTION SPECIALIST MELGOZA: Given EPA's
15 non-concurrence on the high wind events, it is not
16 feasible to revise the existing SIP and develop an
17 attainment demonstration for an existing exceedance that
18 is due to an uncontrollable event. Therefore, a new
19 design value will be based upon air quality data collected
20 over a new three-year window between 2011 and 2013.
21 However, the BACM rule improvements will proceed along a
22 separate time frame independent of the SIP development
23 process.

24 --o0o--

25 AIR POLLUTION SPECIALIST MELGOZA: Because a new

1 scenarios with and without the project. However, a U.S.
2 EPA finding of failure to submit a plan could eventually
3 trigger an 18-month time clock for initiating sanctions on
4 federal highway funds.

5 --o0o--

6 AIR POLLUTION SPECIALIST MELGOZA: The remaining
7 SIP concerns are related to implementation of U.S. EPA's
8 exceptional events rule.

9 --o0o--

10 AIR POLLUTION SPECIALIST MELGOZA: The purpose of
11 this exceptional events rule is to provide a mechanism to
12 exclude events which are not preventable or controllable
13 from a regulatory decision making. The rule outlines
14 specific requirements that must be met in order for an
15 event to be excluded.

16 The first requirement is a demonstration that the
17 event was not reasonably controllable and that it was due
18 to human activity unlikely to recur at a particular
19 location or a naturally caused event.

20 The second requirement is a demonstration of a
21 causal link between the occurrence of the event and the
22 resulting air quality exceedances.

23 Third, concentrations resulting from the event
24 must be above historically typical levels.

25 Finally, documentation must be provided to show

1 that there would have been no exceedance but for the
2 event.

3 --o0o--

4 AIR POLLUTION SPECIALIST MELGOZA: ARB staff and
5 other western states have had a number of concerns
6 regarding implementation of the exceptional events rule.
7 The rule is a critical element in the state planning
8 process to ensure that resources are directed
9 appropriately to controllable emission sources. The rule
10 preamble in numerous locations refers to an event as the
11 physical phenomenon that results in an air quality
12 exceedance. Thus, the rule refers to the high winds,
13 rather than dust emissions and wildfires, not smoke
14 emissions. However, U.S. EPA has been focusing their
15 review of exceptional events documentation on a detailed
16 analysis of the potential individual emission sources
17 contributing to an event.

18 U.S. EPA has also been conducting a detailed rule
19 analysis, despite the uncontrollable nature of these
20 events, or whether additional rules would have prevented
21 an event.

22 Finally, ARB staff is concerned about the
23 increasing level of documentation being required for these
24 events and whether more detailed and time-intensive
25 analyses are truly needed. For example, widespread and

1 severe events, such as the historic wildfire outbreak of
2 2008 in northern California, should require much less
3 documentation than more isolated or lesser magnitude
4 events.

5 --o0o--

6 AIR POLLUTION SPECIALIST MELGOZA: ARB staff has
7 been working with U.S. EPA to suggest a number of
8 improvements to ensure the rule functions more
9 effectively. Our recommendations focus on clarifying the
10 definition of what constitutes an exceptional event,
11 evaluating the appropriateness of adopted control
12 programs, and streamlining the level of required
13 documentation.

14 We believe that the evaluation of whether a
15 requested exceptional event meets the rule criteria should
16 derive from the basis that the event is defined as the
17 physical phenomena that occurred, such as the high winds
18 or wildfires, not the resulting emissions. This is
19 consistent with the actual rule language which
20 specifically refers to an event. In addition, because the
21 natural events themselves are fundamentally not reasonably
22 preventable or controllable, the rules assessment should
23 focus on whether the control program is reasonable and
24 appropriate for preventing exceedances under a typical
25 range of weather conditions and emission activities.

1 Finally, a determination on an exceptional event
2 should be based upon the overall weight of evidence
3 presented, and the level of documentation should
4 correspond with the complexity of the event itself.

5 Staff has recently discussed these issues with
6 the EPA administrator and are encouraged that the U.S. EPA
7 is committed to re-examining the rule and its
8 implementation.

9 This concludes my presentation. And we will be
10 happy to answer any questions.

11 CHAIRPERSON NICHOLS: Thank you.

12 This is, as everybody realizes, a very complex
13 legal and regulatory morass we are in here. I intend to
14 make a few comments myself about this, about the
15 exceptional occurring events process, because it's one
16 I've personally been involved with for a long time. And I
17 think it exists for the purpose, as staff indicated, of
18 trying to focus attention on areas where you have
19 opportunities to do things that will actually improve air
20 quality and improve public health.

21 And as currently being interpreted by EPA, I
22 think they are unfortunately taking this issue in a
23 direction which is going to cause problems all over the
24 west and in rural areas in particular and areas that are
25 impacted by wildfires especially.

1 But we have had conversations. I essentially
2 presented this issue to the Assistant Administrator of
3 EPA, Gina McCarthy, when she was out here a week or so
4 ago. They're going to take another look at this and hope
5 they will begin to rein in some of the excesses here that
6 are actually putting people through a lot of hoops without
7 any benefit.

8 Nevertheless, I think everyone agrees there are
9 measures that can be improved. And I know that there's an
10 effort underway to do that here for Imperial County.

11 So why don't we just go to the witnesses. We
12 have a number who have signed up. And we will take them
13 and then we can have some discussion.

14 We will call on the head of the Air Quality
15 Management District Brad Poiriez first and then take up
16 the rest of the witnesses.

17 MR. POIRIEZ: Good morning, Chairwoman Nichols
18 and members of the Board. Brad Poiriez, I'm the APCO for
19 Imperial County. I've worked for the district for 17
20 years and as the APCO in the last two years.

21 Staff did a good job of giving you some
22 background. I know it's a lot of information for you to
23 absorb. It's six years of living this for the rest of us
24 in the audience here. I know it's a lot of information.
25 But I'd like to add some things to that, if you wouldn't

1 mind.

2 I'm here to support the 2009 Imperial County PM10
3 SIP. It's a product of six years' of cooperative work
4 with the ARB, EPA, and multiple stakeholders to formulate
5 a plan that meets the requirements of the federal Clean
6 Air Act and expands the district's already aggressive
7 policy to reduce particulate matter in the county. No
8 other region in the United States faces the kind of
9 significant challenges that we do in Imperial County.

10 And I believe in your staff report Section 1
11 gives you some breakdown of profile of Imperial County.
12 But I wanted to highlight a couple of the key facts in
13 that section. One of those is that our county covers 4600
14 square miles, and it's dominated by dry, undeveloped, open
15 desert. We also get much less than three inches of rain
16 in the desert, if you're not familiar with our area.

17 The county shares about 80 miles of international
18 border with Mexico where significant amounts of smoke,
19 dust, and other particulates and pollutants come across
20 our border every day. On top of this, we have the Salton
21 Sea. If you haven't heard that, that's one of the largest
22 inland bodies of water in California that's currently
23 receding as we speak.

24 And then we have a highly agricultural county.
25 It also has one of the lowest per capita income in the

1 state of California. And we also experience levels of
2 unemployment rates that are consistently between 20 and 30
3 percent. That gives you a little bit of background for
4 our area.

5 Despite all these challenges, with the
6 combination of efforts from ARB, EPA, the APCD, and our
7 communities, we've been successful in controlling PM10
8 levels as required by the Federal Clean Air Act and state
9 laws.

10 The SIP before you is the result of hard work by
11 the district and ARB to assess the natural and manmade
12 PM10 sources in the valley, inventory improvements, and
13 adopt rigorous best available control measures and
14 technology requirements and set emission budgets and
15 ensure strong PM control throughout the county.

16 This SIP meets all the applicable requirements of
17 the Federal Clean Air Act and sets aggressive controls
18 over those PM10 sources within the county's reasonable
19 means that we can control.

20 Give you a little bit more history on how we move
21 forward with our Regulation VIII -- those are our dust
22 control rules -- and how we develop those best available
23 control measures. The SIP process in the county has been
24 a very long one. And it's taken a lot of effort from a
25 lot of individuals, not only governmental agencies, but

1 also academia, non-governmental agencies, and the general
2 public.

3 The research and planning of best available
4 control measures for PM10 began over six years ago, back
5 in 2004, when the district undertook a review of BACM in
6 other areas to be used as new BACM in the county. We sat
7 down with EPA in October of 2004 to discuss the influence
8 of PM emitted from Mexico and from natural events and how
9 that may impact the SIP that you have before you today.

10 The work resulted in the first draft of the new
11 Regulation VIII rules, which are number 800 through 806 in
12 December of 2004. Over roughly the next year, the APCD
13 organized a Technical Advisory Committee and worked
14 together with members of the community. With the
15 community, EPA, ARB, the Natural Resource Conservation
16 Service, BLM, the Border Patrol, local organizations, and
17 the Farm Bureau, and the agricultural community to get
18 input on all the rules.

19 We convened several advisory committee meetings
20 among these parties to discuss the proposed rules and
21 incorporate input where appropriate. We also conducted
22 six public workshops from May to June of 2005 to solicit
23 public comments on the draft rules. Regulation VIII was
24 developed to mirror extremely stringent dust requirements
25 from other serious PM10 attainment areas, like San Joaquin

1 and the South Coast Air Management District.

2 Because of that, Regulation VIII is just as
3 strict or stricter than those districts. And we believe
4 the APCD now imposes the toughest PM10 requirements in all
5 of California.

6 In August of 2005, we approved the Natural Events
7 Action Plan, which your staff went through a little bit.
8 That's EPA's policy for exceptional events and high winds.
9 And that was quite the accomplishment for our local area.

10 As a result of that process, on November 11,
11 2005, the APCD adopted the new best available control
12 measures and the Regulation VIII rules designed to reduce
13 emissions from manmade fugitive dust areas in Imperial
14 County. We provided detailed documentation of natural
15 events influencing PM levels.

16 The adoption of Regulation VIII rules was in
17 anticipation of PM10 SIP requirements. And the purpose
18 was to adopt BACM rules and be able to document high wind
19 exceptional events. We did this proactively. Industry
20 did this three years in advance of any requirements.

21 Putting together the serious attainment PM10 was
22 quiet the feat, I must say, for a small rural district
23 with limited resources and staffing. When EPA published
24 its failure to attain findings in December 2007, we
25 immediately began working closely with EPA and ARB to

1 develop a PM10 SIP demonstration demonstrating expeditious
2 compliance with the attainment requirements. We met with
3 EPA staff and the county in February of 2008 to discuss
4 the Regulation VIII rules and applicability of
5 conservation management practices.

6 During the visit, EPA staff were able to witness
7 implementation of these management practices firsthand.
8 We've done this several times for several iterations with
9 EPA staff over the last six years.

10 We continue to work with ARB to submit
11 documentation to EPA in May of 2009 for three natural high
12 wind events that cause ten exceedances of the 24-hour PM10
13 standard at various monitors. This work enabled the
14 district in August of 2009 to adopt our PM10 SIP showing
15 that Imperial County's PM control measures already result
16 in attainment of the serious area PM10 standards but for
17 exceptional events and transport from emissions from
18 Mexico.

19 We submitted the PM10 SIP to your staff back in
20 September of 2009, and I have the opportunity today to
21 finally secure your approval of that plan.

22 Last year, CARB staff came down to Imperial
23 County, sort of a community forum where the community
24 could share some of their concerns. And of those
25 concerns, one of the major points was our agricultural

1 burning program in Imperial County. Agricultural burning
2 is a de minimous source in Imperial County. It's less
3 than one less of our PM10 emissions inventory. However,
4 that being said, we heard their voices. We understood
5 that it's a concern of theirs. It's a concern of ours.
6 So we worked together to try to address those.

7 As a matter of fact, about a month ago today,
8 April 27th, Imperial County Board adopted revisions to our
9 Smoke Management Program, which was approved by your
10 Executive Officer back in 2001.

11 From the beginning, the process of developing the
12 SIP and PM10 controls that compromise it was always a
13 transparent and exhaustive one. The district undertook a
14 very detailed review of appropriate PM controls in the
15 valley using the best available control measures available
16 to us. The measures we proposed were based on a large
17 amount of data on the relative PM contributions from a
18 variety of manmade, natural, and foreign sources.
19 Affected industries, the public, federal, state, and local
20 agencies were given numerous opportunities to participate
21 in rule development.

22 As ARB staff knows, EPA itself was involved with
23 reviewing and commenting on the SIP components going all
24 the way back to the first development of the Regulation
25 VIII rule starting in 2004, and even going beyond that,

1 back to 2001.

2 Both the district and ARB staff have concluded
3 that the SIP meets applicable federal and state
4 requirements and represents an appropriate aggressive
5 approach to PM control for manmade sources in the valley.

6 We also both agree that the SIP fully describes
7 the influence of natural and foreign sources of PM in the
8 county, sources not under direct control, but which are
9 important to track and analyze. We have flagged the PM10
10 emission data shown to be influenced by high wind events
11 and shown why the exceedances are not due to sources under
12 the district's reasonable control.

13 Under the district's Natural Events Action Plan,
14 we have taken appropriate steps to protect public health
15 by educating the public about high wind and wild land fire
16 events and by mitigating these health impacts by adopting
17 dust control measures from those manmade dust sources we
18 can control. All the measures taken together demonstrate
19 a well considered PM control and mitigation plan designed
20 to help the county achieve PM attainment expeditiously
21 while accounting for PM sources beyond the county's
22 control.

23 I'd like to address a little bit of EPA's
24 concerns. We know EPA has some residual concerns with the
25 Regulation VIII rules. We look forward to working through

1 those issues and obtaining EPA's full concurrence on the
2 rules and this SIP.

3 As we discussed, since 2004, EPA has been
4 significantly involved with us and ARB in reviewing and
5 commenting on the Regulation VIII rules and other
6 components of our SIP. We feel comfortable that the SIP
7 is well supported not only by the emissions and
8 meteorological data we have developed over several years,
9 but also by comments and input from EPA itself over that
10 period.

11 As ARB staff knows, understanding the various PM
12 emissions sources and contributions in Imperial County has
13 required an extremely complex multi-year and multi-party
14 effort. Approval of the SIP today will facilitate the
15 continuing with EPA, and we believe we will be able to
16 satisfy EPA's last few concerns and arrive at a
17 federally-approved SIP.

18 There is nothing new in EPA's letter that you
19 recently received. The letter doesn't raise any issues
20 that would undermine or otherwise suggest that the
21 approval of this SIP is improper. Importantly, while we
22 are prepared to address their concerns, they do not take
23 issue with the technical foundation of the submittal.

24 It is not uncommon for EPA to disagree with ARB
25 or local air districts, as recently shown with South

1 Coast's PM10 plan submittal and your recent approval. We
2 expect that ARB approval of the SIP will only help the
3 process of resolving these last few issues with EPA and
4 will show EPA that ARB, the district, are united behind
5 this SIP and we believe it meets or exceeds all applicable
6 requirements under State law and the Federal Clean Air
7 Act.

8 As my Board has committed to you in their letter
9 dated April 6th -- I believe it's in your backup Appendix
10 A -- the APCD is committed to the continued development of
11 cost effective rule enhancements to the existing SIP and
12 efforts to improve public health.

13 I would like to publicly thank your staff and all
14 their work and my staff and also our Technical Advisory
15 Committee members. We worked long and hard to get to
16 where we are today to get to this hearing.

17 In closing, again, I would urge you to give
18 approval to the initial original staff recommendation of
19 Imperial County's PM10 SIP. Thank you.

20 CHAIRPERSON NICHOLS: Thank you very much. And
21 thanks for all your hard work, really appreciate it.

22 Are there questions? If not, we will hear from
23 the public. We do have one question.

24 BOARD MEMBER D'ADAMO: I'm in Ron's seat, so this
25 should be magic. I see your name here.

1 I just have a quick question about the Salton
2 Sea. That really concerns me. In the event that somehow
3 we're able to work this out, are you all thinking about
4 the future and how additional emissions from the Salton
5 Sea can be incorporated into with whatever you work out?

6 CHAIRPERSON NICHOLS: Brad, you might want to
7 address that.

8 MR. POIRIEZ: Definitely. Imperial County APCD
9 is always on top of that. We're part of the Advisory
10 Committee for the Salton Sea restoration. We are very
11 concerned that because of water transfers and other
12 occurrences that are ongoing right now that the sea is
13 receding at a rapid pace, exposing additional shoreline.
14 Currently, about 6,000 more acres have been exposed.
15 That's something that's a little bit difficult for us to
16 put our hands around at this time. We want to ensure that
17 it doesn't become the next Owen's Valley. And not only
18 for the public health concern, but for the overall
19 livelihood of our county.

20 We do address it in chapter seven of our SIP to a
21 small degree. There is not much control we have at this
22 point. And as you are aware, I'm sure, there is ongoing
23 litigation over the legality of those water transfers. So
24 depending on how that comes out, it is going to dictate
25 how much the APCD can require upon those water agencies or

1 the benefactors of the water that's actually being removed
2 that would have went into the sea.

3 CHAIRPERSON NICHOLS: Of course, another branch
4 of the federal government has been pushing for the water
5 transfers at the same time the EPA is concerned about the
6 natural occurring events. So it's another example of how
7 tough it is to deal with some of these events.

8 BOARD MEMBER RIORDAN: Madam Chair, I have one
9 question. And I believe the staff had indicated in their
10 report that there were three events between 2006 and 2008
11 of the high wind natural events; is that correct? All
12 right.

13 My question to you is what about 2009?

14 MR. POIRIEZ: So far -- actually, in 2008 and
15 2009, what we're seeing is reduction in the amount of
16 exceedances, to where in 2008 we had zero exceedances
17 actually, if you discount the transporter or natural
18 events that have taken place. As mentioned by your staff
19 and Ms. Nichols herself, the natural events rule that was
20 recently adopted in 2007 by EPA is very convoluted. And
21 interpretation of that across the western United States is
22 different.

23 All the rural areas and actually desert areas
24 need that exceptional event rule as a tool for their
25 planning purposes and for reaching their attainment goals.

1 We've made some of the same comments. CAPCOA has made
2 some of the same comments. WESTAR, NACA, all of us are
3 concerned with the amount of effort and requirements that
4 are being placed into documenting exceptional events, as
5 your staff recently mentioned as well. We'll continue to
6 work with EPA to hopefully come to some kind of agreement,
7 some kind of guidance document that's needed for all
8 agencies. Right now, we don't have that. So it's very
9 difficult for us to move forward with getting approval of
10 any documentation for exceptional events.

11 BOARD MEMBER RIORDAN: And I can appreciate that
12 and the difficulty of that, but we'll just work through
13 it. We just have to.

14 MR. POIRIEZ: We'll definitely forge ahead.

15 CHAIRPERSON NICHOLS: Thank you.

16 We'll now hear from members of the public. And
17 we will impose a three-minute rule. Obviously, we didn't
18 think it was appropriate to do that for the air district.
19 But they're not commenting as a member of the public but
20 as a co-regulator.

21 Okay. Mr. Aryon Moiola. Ms. -- I can see that I
22 got that wrong. Coalition of Labor, Agriculture, and
23 Business.

24 MS. MOIOLA: Good morning. My name is Aryon
25 Moiola. I'm Executive Director of COLAB Imperial County,

1 which stands for the Coalition of Labor, Agriculture, and
2 Business. We represent close to 150 local businesses
3 involved in agriculture, construction, and general
4 business and those types of things.

5 We have been involved with the process of
6 bringing this rule forward since 2004 on the Technical
7 Advisory Committee. It was a great learning process for
8 us. And learned a lot more technically about air quality
9 than I thought I ever would know.

10 But moving forward, what came out of that is we
11 came out and trained all industries within our own
12 industry. We came out and we trained agriculture. We
13 trained construction and all these other groups on the
14 rule that is before you today. And we have seen a great
15 benefit from that coming from within our industry. And
16 also I think you can see based on the number of our
17 exceedances declining that it has been greatly successful.
18 So I want to thank APCD for working with us on that and
19 for basically training us on how to train our people.
20 Thank you.

21 I would ask that you would move this SIP forward
22 today, that you would approve it and move it forward so we
23 can continue to work with EPA and seeing a final product
24 come out of this. We desperately want to have a State
25 Implementation Plan instead of moving forward with a FIP.

1 Also, this SIP not only meets all the
2 requirements of the Federal Clean Air Act to lead APCD to
3 meet attainment objectives, but it also applies BACM
4 measures for source categories, which is obviously
5 extremely important.

6 Our members have worked closely with Imperial
7 County Air Pollution Control District to make sure these
8 rules are successful, and we ask for your support in
9 completing that process.

10 Thank you.

11 CHAIRPERSON NICHOLS: Thank you.

12 Linsey Dale from the Imperial County Farm Bureau.

13 MS. DALE: Good morning. My name is Linsey Dale.
14 I'm the executive director of Imperial County Farm Bureau,
15 which represents approximately 800 members primarily
16 consisting of farmers, ranchers, and landowners in
17 Imperial County.

18 As Brad mentioned, this has been a very long
19 process. The Farm Bureau joined a working group
20 consisting of members of agriculture and business
21 communities, along with concerned citizens of Imperial
22 County, to begin the development process of the State
23 Implementation Plan that you have here before you.

24 This SIP represents very hard work from the Air
25 Pollution Control District staff and members of the

1 community and a very, very long tedious process of
2 listening to and examining all concerns from the various
3 parties. It also represents very proactive measures that
4 our community has taken to ensure the cleaner and
5 healthier air for generations to come in our home in
6 Imperial Valley.

7 One such proactive measure was the development in
8 2005 of Regulation VIII to address fugitive dust. These
9 rules were put into place several years before the SIP was
10 adopted by our county. And as Brad again mentioned, they
11 are more stringent than other areas.

12 Monitoring data has revealed that the Regulation
13 VIII is successful as for only exceedance days since the
14 implementation of the rules has been due to the natural
15 events and transport from our neighboring Mexico, which we
16 know we have no control over.

17 In addition to the Regulation VIII, again,
18 community leaders representing agriculture, business,
19 highway patrol, county fire, concerned citizens formed a
20 Technical Advisory Committee to develop a new Smoke
21 Management Plan to work in conjunction with this SIP.
22 And, again, it has been recently approved by our Board of
23 Supervisors.

24 These are only a few examples of the
25 collaborative efforts of community leaders representing

1 the many different branches of people in Imperial County.
2 Imperial County Farm Bureau believes that -- we've been
3 involved with the program on all aspects of the process
4 since the beginning. And we are very confident that the
5 concerns and comments from all parties involved were
6 heard. And they were incorporated, where appropriate, in
7 the SIP.

8 But for this and many other reasons, we
9 respectfully request that you approve and adopt the
10 Imperial County PM10's State Implementation Plan today as
11 you have before you. Thank you so much.

12 CHAIRPERSON NICHOLS: Thank you.

13 Luis Olmedo and Anita Nicklon.

14 MR. OLMEDO: Good morning, Chairman Nichols and
15 members of the Board. My name is Luis Olmedo. I'm
16 Executive Director of Comite Civico.

17 So I'm here to request that the Board based on
18 some fundamental disagreements of Imperial County State
19 Implementation Plan and in support of the evidence
20 submitted by the U.S. EPA that this Board not approve the
21 plan. Now we've seen a new recommendation from staff.
22 They did a wonderful job presenting this.

23 Couple things I just wanted to clear is one of
24 the pictures on desert, it is a hot spot for off-road
25 vehicles. It also houses one of the largest manufacturers

1 of plaster. Just wanted to kind of put a little emphasis
2 on that.

3 So at this time, we want to be clear that,
4 instead of doing a no action, that the Board give clear
5 directive to Imperial to complete all the necessary
6 amendments as comitted in the April 6 letter signed by
7 Board Chair of Imperial County Board and any other rule
8 amendments that have been continually requested by U.S.
9 EPA.

10 Now, we commend Air Pollution Control District
11 and CARB for recognizing EPA's concerns. We, too, want to
12 be part of looking at any positive support and measures
13 and showing some unity affront in going through the next
14 steps and really finding some solutions for air pollution
15 problems.

16 Comite Civico, I know there's been concerns about
17 legal repercussions. Comite Civico submitted notices of
18 intent to file a lawsuit. We are prepared to work with
19 Imperial County to give them the time and support in their
20 development of rule amendments, but only until December
21 2010. This is a deadline they've agreed to meet in order
22 to -- they've actually submitted a letter dated April 6th
23 that had some of the EPA's concerns. Now, EPA came back
24 with another letter stating that that was a good effort
25 and -- but there is other measures that were missed. And

1 I know that's probably something that Air Pollution
2 Control District will look at. And I know CARB is now
3 considering -- has read through that letter. We're
4 already in May and Imperial should be in a race to meet a
5 deadline.

6 We ask CARB Board members to discourage any
7 lawsuits from Imperial. Instead of fighting new rules and
8 amendments, they should be in a race to complete and meet
9 the December deadline. U.S. EPA has made additional
10 determinations on limited approval/disapproval of the
11 Regulation VIII rules for Imperial County. The final
12 ruling is scheduled for June 15, which made up a
13 significant portion of the plan. U.S. EPA submitted a
14 detailed explanation of reasons why they did a limited
15 disapproval and pointed out weaknesses in the plan as
16 follows. Some of the weaknesses I have found is example
17 Rule 806 Section E lists conservation management plan's
18 intended to control emissions for agricultural land
19 preparation and cultivation, harvest activities, unpaved
20 roads, traffic areas, but these CMPs are broadly defined
21 and there is no other mechanism in place to ensure
22 specificity.

23 The absence of sufficient defined requirements
24 make it difficult for regulated parties to understand and
25 comply with the requirements and makes it difficult for

1 Imperial County Air Pollution Control District or others
2 to verify compliance of enforcement.

3 I know the Board has read through a lot of this,
4 and so it's important that these measures are considered
5 and that Imperial County Air Pollution Control District
6 does implement these measures.

7 Also wanted to read a couple statements from our
8 Board Chair. Board of Supervisors from Imperial County
9 sent an e-mail yesterday. He's urging the Board to reread
10 all the letters and concerns EPA has had on the SIP. And
11 I'll read it exactly as it said.

12 "I urge you to reread the letters and the
13 concerns EPA had had with our SIP. I ask you take the
14 time to re-acquaint yourselves with the issue."

15 Now, he also goes on and references the Imperial
16 County's lawsuit against IAD. And he states, "The issue
17 of air quality and protecting our citizens' health is
18 primarily reason behind the lawsuit against IAD and QSA.
19 Why should this be any different?" He also states,
20 "Litigation is not the answer. It is regrouping and
21 presenting revised amendments."

22 CHAIRPERSON NICHOLS: Thank you, Mr. Olmedo.
23 Your time is up.

24 MR. OLMEDO: Thank you.

25 CHAIRPERSON NICHOLS: Thank you.

1 And we do have the letter from -- I believe it
2 was distributed. If not, probably should be. Thank you.

3 Anita Nicklon, followed by Olivia Valenzuela and
4 Ema Rosa Silva.

5 Ms. NICKLON: Good morning. My name is Anita
6 Nicklon. And thank you for addressing this issue.

7 I live in El Centro basically across from an
8 agricultural field. And just to illustrate an example,
9 last Friday, Saturday, and Sunday, I had to stay inside
10 the house for all those three days, day and night, because
11 we experienced wild winds. Even when my windows and my
12 doors were closed, I could write my name on the table.
13 And I'm not exaggerating.

14 I'm very concerned about this, because I have two
15 daughters. And my youngest one, who is 12, had to miss
16 several days of school already. It is crucial that you
17 don't approve the plan as it is because it is too weak.
18 It would be a negligent act. If you approve it, you will
19 be sending a wrong message. Because, you know, right now
20 several residents in different parts of the county are
21 being threatened by several projects that will add more
22 pollution. And I'm sure that PM10 will increase
23 immensely. I don't know if you have heard about wind
24 zero, but that's, you know, in the process. It's in our
25 way.

1 And just to illustrate an example. There will be
2 like 53,000 rounds of ammunition per day. As you know,
3 bullets contain a lot of materials -- hazardous materials.

4 So, therefore, we respectfully and I respectfully
5 request that CARB send this weak SIP back to the Imperial
6 County Air Pollution Control District with a directive to
7 strengthen it by implementing the U.S. EPA's
8 recommendations or hold it until they improve it.

9 This should be completed no later than December
10 31st, 2010. And only then will it merit a review and
11 approval by CARB and send it to EPA for final approval.

12 Remember that my family, my family's health, and
13 the health of many kids in Imperial Valley is at stake.

14 Thank you very much.

15 CHAIRPERSON NICHOLS: Thank you.

16 Ms. Valenzuela and then Ms. Silva.

17 MS. VALENZUELA: Good morning. Thank you for
18 allowing us the opportunity to express our opinion.

19 The plan that you have before you was, at best,
20 week. Why would you approve something that has been
21 disapproved and rejected by the State?

22 The current Imperial SIP contains weak measures
23 for fugitive dust rules 800 through 806 and does not go
24 far enough to ensure the particulate matter air pollution
25 is reduced to meet the federal PM10 standards.

1 Recognizing this, the U.S. EPA Region 9 in
2 December sent a letter to the California Air Resources
3 Board, CARB, calling Imperial County's continual
4 violations of the federal PM10 standards inexcusable. The
5 EPA's analysis of Imperial County Air Pollution Control
6 District Regulation VIII fugitive dust rules 800 through
7 806 outline the deficiencies of the Imperial SIP and how
8 it could be strengthened in order to reduce the PM10
9 levels to reduce health risks.

10 The EPA analysis also highlighted how a number of
11 critical SIP measures do not meet the standards of other
12 California Air Pollution Control Districts, namely the
13 SCQMD and the SIAPCD rules that reduce particulate matter
14 pollution from similar sources. At a minimum, the
15 Imperial SIP should include standards that meet those of
16 other California Air Pollution Control Districts because
17 it is a serious non-attainment status.

18 I know this was a long process and a very tedious
19 process. I did sit in on several meetings when this plan
20 was being worked on. I cannot emphasize how difficult the
21 air and the PM10 is for the citizens of Imperial County.
22 So we do need your help. We need your assistance. And I
23 respectfully request that instead of approving this with a
24 disapproval of the State, you send this back to the county
25 so that they will re-write with the recommendations I

1 stated before and help us stay healthy.

2 Thank you.

3 CHAIRPERSON NICHOLS: Thank you.

4 Ms. Silva and then Monique Lopez.

5 MS. SILVA: Good morning, members of the Board.

6 My name is Ema Rosa Silva. I live in Calexico,
7 California. My address is 801 Nosoto Street (phonetic).

8 And we're here and we strongly support
9 Imperial -- we support a strong Imperial State
10 Implementation Plan, SIP, that will ensure the Imperial
11 County will meet the federal PM10 standards and protect
12 the health of our community.

13 The reason that we suffer, our children in the
14 Imperial Valley which live on the southeast corner of
15 California, are three time more likely to be hospitalized
16 for asthma than those in the rest of the state and portion
17 of its population size. The county has the highest number
18 of asthma-related emergency room visits, children from
19 five years old to 17 years old.

20 Why? One reason is Imperial County has
21 continuously exceeded the federal limits for particulate
22 matter, PM10. And also I'm saying PM10, the burning of
23 the fields, which encapsulates the PM10 which contains
24 pesticides and herbicides -- okay -- which we breathe
25 daily when there is a burning of the fields. And are very

1 risk for health, especially breathing problems that we
2 have.

3 And also want to say that the current plan fails
4 to protect the most vulnerable members of our communities,
5 which are our children and our senior citizens.

6 Thank you very much.

7 CHAIRPERSON NICHOLS: Thank you.

8 Ms. Lopez and then Julia Lester.

9 MS. LOPEZ: Monique Lopez with the Coalition for
10 Clean Air, a statewide air quality advocacy organization.

11 Thank you, Chairwoman Nichols and Board members,
12 for making the Imperial SIP a priority and having it on
13 the agenda today. We really appreciate that.

14 I'd like to thank CARB staff and also APCD staff
15 for their diligence in working on this SIP and all their
16 hard work as well.

17 I'd like today to emphasize a technical
18 assessment report that the U.S. EPA submitted to the
19 California Air Resources Board and to the Imperial County
20 APCD in February of 2010. I believe it's also included in
21 your packet as well. In that technical assessment report,
22 they highlight the deficiencies in the current plan and
23 make recommendations how to make the plan stronger. And
24 by making those recommendations, they focused on what
25 other air districts in California are currently doing and

1 how the current measures of Imperial County APCD SIP is
2 not up to par with those other measures in the county for
3 similar sources.

4 I say that because we believe that it's
5 imperative that the Imperial SIP incorporates the
6 recommendations made by the U.S. EPA regarding fugitive
7 dust rules 800 through 806.

8 And I acknowledge and commend Brad Poiriez'
9 commitment today saying that the air district is willing
10 to work with the U.S. EPA to strengthen those rules.

11 I also commend the Air Pollution Control District
12 Board members for making a similar commitment in an April
13 6 letter sent to you all.

14 The U.S. EPA has determined that Imperial County
15 APCD has a weak plan and the Imperial County APCD has
16 admitted in that April 6 letter that it can do better.
17 Therefore, the California Air Resources Board must take
18 the only appropriate action in this situation: They must
19 keep the Imperial APCD accountable to fulfilling their
20 commitment to strengthen SIP. The California Air
21 Resources Board has an opportunity right now to implement
22 clean air solutions and serve the best interests of the
23 community.

24 Therefore, we respectfully request that CARB pass
25 a resolution to send this weak SIP back to Imperial County

1 with the directive -- the clear directive to strengthen it
2 by implementing the U.S. EPA's recommendation or hold the
3 SIP until the Imperial APCD has strengthened the measures
4 within it. The resolution should include a deadline for
5 the SIP to be completed no later than December 31st, 2010.
6 Only then will it merit review and approval by CARB to be
7 sent to the EPA for final approval.

8 Thank you very much.

9 CHAIRPERSON NICHOLS: Thank you.

10 Ms. Lester and then David Hubbard.

11 MS. LESTER: Good morning, Chair Nichols, Board
12 members. My name is Dr. Julia Lester. I'm an Air Quality
13 Principle at Environ International.

14 I have over 20 years of air quality experience,
15 including over 14 years with the South Coast Air Quality
16 Management District. It's good to see you again, Mayor
17 Loveridge.

18 I have been involved in State Implementation Plan
19 preparations since 1990. I led the PM10 strategy section
20 from 1995 through 2004 at the South Coast District. I
21 prepared the original 1997 PM10 State Implementation Plan
22 for both the air basin and Coachella Valley, which is the
23 desert area near Palm Springs and Indio, including the
24 BACM analysis. I led the BACM rule development, including
25 the first in the nation agricultural dust and street

1 sweeper rules. And I led the PM10 reductions efforts in
2 Coachella Valley, a serious desert PM non-attainment area
3 that was recently brought into attainment with the
4 recommendation to this Board to send that SIP and
5 attainment demonstration on to EPA, even though EPA had
6 questioned the exceptional events and monitoring stations
7 in Coachella Valley.

8 I joined Environ in August 2004 and began working
9 with the Air Pollution Control District shortly afterwards
10 on their exceptional events identification analyses and
11 documentation. And I've assisted them since then in the
12 2005 Regulation VIII development and their BACM analysis,
13 preparation of exceptional events documentation,
14 international transport event analysis, and the 2009 SIP.

15 I will tell you that in my 20 years of
16 experience, this has been the most thorough public process
17 in my experience, beginning with the regulation and BACM
18 Technical Advisory Committee in December 2004, adding six
19 public workshops, the November 2005 adoption hearing of
20 the best available control measure reporting rules when
21 EPA supported the rules as BACM.

22 We continue to work with the SIP working group
23 and agency interactions beginning in January '08 before
24 any technical work was done through the draft release, six
25 public workshops, and the adoption hearing.

1 Also, it's the most thorough technical analysis
2 of exceptional events and international transport in my
3 experience. This is the documentation for the exceptional
4 events.

5 In addition, there were no comments on the
6 international transport or exceptional events analysis
7 during the public comment period, which is contained in
8 the State Implementation Plan, which again is very
9 thorough analysis and demonstrated attainment but for the
10 effect.

11 Only one percent of the concentrations are above
12 the standard. They are due to exceptional events that are
13 protected against by the 2005 Natural Events Action Plan.
14 I would say that based on my 20 years of SIP experience
15 and over five years of working with the APCD, with CARB,
16 with EPA, and the local stakeholders, I firmly believe
17 that CARB Board can be confident in approving the 2005
18 Imperial County SIP and the but for international PM10
19 transport attainment demonstration.

20 Be happy to answer any questions.

21 CHAIRPERSON NICHOLS: Thank you. Appreciate
22 that. Good work.

23 I don't think there is any disagreement on our
24 part as far as the documentation on the exceptionally
25 occurring events. But it's helpful to have that

1 supporting information.

2 Okay. David Hubbard followed by Larry Cox and
3 Mark Osterkamp. And that will be the list of witnesses,
4 unless somebody else has signed up that did not make it on
5 to the list.

6 MR. HUBBARD: Good morning.

7 My name is David Hubbard. I'm an attorney
8 representing Ecologic Partners, which is a consortium of
9 off-highway vehicle groups and camping groups in southern
10 California.

11 I've heard it said, and I agree that this issue
12 is complex from a regulatory perspective. But in many
13 ways, it's actually very simple from a data perspective.
14 Your own data, or that data developed by the district,
15 indicates that on the vast majority of days the PM10 per
16 day is less than 50 micrograms per cubic meter, which is
17 less than a third of the standard.

18 The exceedances occur when there are wind events
19 and the transport issue. Doesn't happen very often. I
20 think it's about once or twice a year. But during those
21 events, the 150 micrograms per cubic meter standard is
22 exceeded by a factor of two. I think it's close to 300.
23 But if it weren't for those wind events and it weren't for
24 those transport issues, we wouldn't be here. The district
25 would be so comfortably within attainment, we wouldn't be

1 having this meeting.

2 So what bothers me is that there is so much
3 emphasis and resource being directed at issues and at
4 activities that have no real bearing on the exceedances
5 that have been identified.

6 Let me give you an example, because my clients
7 who participate in OHV recreation are often an easy
8 target. The exceedances that have been identified related
9 to transport from Baja obviously are not causally related
10 to what my clients do.

11 Some people believe, what about the wind events?
12 Well, the wind events took place April 12, June 5,
13 September 2nd. All of those fall outside the standard or
14 peak OHV season in the desert. That season runs from
15 October 15th basically to Easter, right around April 1st.
16 So there is really no causal link between OHV use and even
17 the wind events that have been identified as the reasons
18 for the exceedances.

19 So I'm a little bit concerned when I see both the
20 EPA and even the Imperial district talk about we're going
21 to focus more effort on controlling dust from OHVs when
22 there is really no data to support the causal link between
23 that activities and the exceedances that are causing the
24 problem.

25 So my clients are very happy to work with BLM and

1 State Parks and with the Imperial County and EPA about
2 reducing what dust does occur. But I think it's important
3 that we keep our eye on the prize, which is demonstrating
4 to the EPA there is very, very, very little that we can do
5 to address these exceedances due to wind and transport.
6 So let's not waste resources.

7 Thank you very much.

8 CHAIRPERSON NICHOLS: Thank you, sir.

9 Larry Cox and then Mark Osterkamp.

10 MR. COX: My name is Larry Cox. I farm in the
11 Imperial Valley. Also have farming operations in Mexico
12 and Salinas Valley.

13 I think it would be nice if we could encourage
14 EPA to pass a rule that it's illegal for the wind to blow
15 more than 25 miles an hour, or it's illegal for PM10 to
16 come across the boarder without permission. I think we
17 would be happy to support that as a rule.

18 I don't want to be redundant here. And I'm just
19 here to support the Imperial County SIP. I was involved
20 in some of the technical work and giving public input.
21 And I want to thank county staff and those from the
22 community were also involved in that.

23 I just want to speak a little bit as far as what
24 agriculture is doing. And one concern I have is that if
25 you regulate that which can be regulated, that's basically

1 pointing to us in agriculture.

2 And farming in California is an absolute
3 nightmare. I moved an operation to Mexico after NAFTA
4 passed. And I lobbied against NAFTA, because I didn't
5 think we could de-regulate trade while we had regulated
6 rules here. And I was correct. Our farming operation in
7 Mexico, for lack of a better term, is kicking the crap out
8 of our U.S. operation. Between TMDLs, between CUPA,
9 PM10s, you know, fugitive dust that -- don't get me
10 started on water and diesel regs. Anyway, we've got a
11 litany of challenges in front of us.

12 And I love what I do. I sit on the California
13 Leafy Greens Board. Our company was indirectly effected
14 by the E. coli outbreak three years ago. And the farming
15 community, most of us are pretty libertarian and say,
16 "Hey, don't tell us what to do." But we recognize that we
17 are part of the larger community, and we do want to be
18 good neighbors.

19 And the things that we're doing now, we're
20 running water trucks a lot more than we used to to keep
21 dust down. We're sprinkling a lot more. Between GPS on
22 our tractors, we're able to do the work with two
23 implements instead of three, so less passes over the road.
24 With remote sensing, we don't have to travel down dirt
25 roads as much.

1 So we are engaged. We're supportive. We still
2 have more than a few who are anti-regulation. But as
3 Lindsey and Aryon are talking about teaching, I'm one of
4 those they're trying to teach. And that proves that you
5 can teach an old dog new tricks.

6 And so we are on board. We are doing what we
7 can. We do need to be eventually profitable. There's
8 only so much we can do. So I ask your support in being
9 reasonable and helping us to remain competitive on the
10 world stage. Thank you.

11 CHAIRPERSON NICHOLS: Thank you. That's a good
12 comment.

13 Mr. Osterkamp, please.

14 MR. OSTERKAMP: Good morning. Thank you very
15 much, Chairman Nichols, for this opportunity.

16 I'm Mark Osterkamp, just recently retired from
17 being president of the Local Farm Bureau.

18 I guess the message I would like to bring to you
19 today is that we feel that Mr. Poiriez has done an
20 excellent job of gathering data, et cetera, to be able to
21 end all this process and quit holding us hostage to an
22 ever-changing perception of what's going on in Imperial
23 Valley. We feel that his data is good data and that we
24 would just like to go on and move forward with it.

25 The Farm Bureau has a very active good neighbor

1 policy. We do our best. Larry is correct; we have been
2 changing over the years. We burn a lot less, just because
3 we want to. And we're probably disking less and using
4 more water trucks, et cetera, just because it's the right
5 thing to do.

6 My daughter is asthmatic. And she's out of the
7 valley now. But during that time period, we had problems.
8 But that's just the way -- not that everybody has to
9 accept them, but -- and so we have sympathy for those
10 people. And we do our best. And we'd like to just bring
11 that forward.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you, Mr. Osterkamp.

14 I believe that concludes our list of witnesses.

15 I will ask the staff if they have any additional
16 remarks they'd like to make based on what you've heard
17 here today.

18 All right. This comes back to the Board. And I
19 will make a couple of remarks, and I'm sure other Board
20 members will want to as well.

21 In a sense, there are no good options here,
22 because legally speaking we could either submit the plan,
23 which will be disapproved, or not submit the plan, which
24 will then trigger eventually a finding of non-submittal.
25 So, either way, we're not exactly in a position to do

1 something that will lead to an immediate good response
2 from the EPA.

3 In defense of our staff delay until this point, I
4 would say they've been working constructively with the
5 district on this measure, that they have concurred in the
6 technical findings and given support to the process that's
7 going on here to upgrade and improve all of the dust
8 measures that are in place. Because I think there has
9 been over the years a greatly increased recognition that,
10 whether or not technically there are violations occurring,
11 still there are situations where wind-blown dust is
12 causing irritation and harm to people in communities. And
13 that needs to be addressed.

14 We also face from the environmental community
15 here the residents who spoke up today and others who
16 didn't come threats of lawsuits for not disapproving the
17 plan and sending it back and insisting that we brand it as
18 inadequate. And I think that's a very -- also would not
19 be an appropriate response, frankly, because it seems to
20 me we've heard plenty today that indicates there has been
21 diligent effort going on here and a very meaningful
22 commitment on the part of the local district to upgrade
23 their plan.

24 And I think we need to continue to work with them
25 to make it possible, which is why we've ended up with this

1 staff recommendation of do nothing. Do no harm. Right.
2 Don't make the situation any worse by inflaming the EPA
3 process or creating more opportunities for litigation on
4 the disapproval side. This is obviously a judgment call
5 as to what is the best way to try to continue the progress
6 that has been made. And we've certainly heard a very
7 eloquent plea from Mr. Poiriez who would like us to send
8 the plan on and give it our stamp of approval.

9 However, I guess I come down on the side of
10 saying that when you've got a letter from EPA
11 pre-disapproving that action, it looks like it's a stick
12 in the eye of the federal government as well, which isn't
13 really going to be conducive to getting us where we need
14 to go with the exceptional events policy.

15 So I would support the staff recommendation, but
16 I would also welcome comments from other Board members, if
17 you would care to weigh in on this.

18 BOARD MEMBER RIORDAN: Madam Chairman, if I
19 might, I think when you opened the item, you indicated
20 some discussion on your part. And I think clearly that
21 needs to occur again, because I think what I'm seeing here
22 is some lack of recognition of that exceptional events
23 policy and how it actually works. And I'm thinking again
24 about Boards throughout California that do have these
25 problems. Imperial isn't just one of them. There are

1 others.

2 And I really believe that we need to help and
3 facilitate EPA's understanding of this. I can't stress
4 that enough.

5 And I agree with you, it doesn't get done here in
6 some counterintuitive sort of approval or disapproval, but
7 it really needs the personal touch. And so I believe
8 while we may except the staff recommendation today, really
9 hoping that you shoulder that responsibility. Because
10 again, it just isn't Imperial County. It's going to be
11 many, many other districts. And I sit on the Board of one
12 of those districts and know there is simply nothing you
13 can do when the wind is blowing or whatever is coming
14 across our borders is occurring.

15 So thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 Supervisor Roberts.

18 BOARD MEMBER ROBERTS: Yeah. I think I feel the
19 same uneasiness. Imperial is a neighbor of ours. And so
20 as you would expect, I've been there on a number of
21 occasions. I have to testify I've seen dust. I haven't
22 see three inches of rain, but I've seen the dust. So I
23 know that -- I'll take on their sworn testimony they do
24 get three inches or less as I think was testified.

25 I visited there a few years ago at the request of

1 one of the supervisors when a problem was burning of tires
2 on the other side of the border that was causing a plume
3 of impactful air. To some extent, it mirrors what's
4 happening with some of the other emissions that don't
5 respect borders.

6 And I guess the thing that is disturbing about
7 this is that the argument isn't with us; it's between the
8 district and EPA. It bothers me that EPA at beyond the
9 eleventh hour would turn in this kind of a letter.

10 I think all of us -- and I share with Mrs.
11 Riordan, we have fires in San Diego. If all of a sudden
12 that became counted against our efforts on controlling the
13 quality of air, we would be in a terrible predicament.
14 Somehow we would have to get God on our side, because
15 there would be very little that I know of -- somebody can
16 point and say get rid of some more dead trees, in spite of
17 the fact you're spending millions of dollars every year to
18 do it. Do a better job, in spite of the fact that
19 two-thirds of the county is controlled by the federal and
20 state government. And that's where 75 percent of our
21 fires start. They wouldn't be acknowledging their
22 contribution of this and one of the other agencies. They
23 would be saying somehow you've got to do something.

24 You know, I think staff has come up now with the
25 only practical course. But I don't know how we can

1 communicate a certain uneasiness with the way this came
2 about and really encourage them to work and understand the
3 situation, to the extent there are other things that could
4 be done that don't relate to this. To see such a nexus
5 between the dust storms and their exceedances, it's just a
6 little more paving isn't going to do it. If you've been
7 out there, that's not the issue. So I hope that they can
8 get this resolved.

9 I'm wondering -- I don't know from a time
10 standpoint. I mean, this really says let's delay this
11 until such time as they can get some kind of an agreement,
12 you know, let's move on. I guess it would come back to us
13 for approval. We want that to happen. I hear the
14 director speaking. I'm not sure if that's a wiser course.
15 Sounds like that would be a less wise course --

16 CHAIRPERSON NICHOLS: Well, I believe we heard
17 they are planning to expeditiously complete the changes to
18 the rules that are already underway. So we will have an
19 opportunity to send those on.

20 But I'm thinking based on both your and Mrs.
21 Riordan's comments that maybe we should also formally
22 respond to the EPA letter. And I would be happy to sign a
23 letter on all of your behalf making it clear to EPA how
24 strongly we disagree with the way they're approaching this
25 situation.

1 BOARD MEMBER ROBERTS: I think our two counties
2 could be affected dramatically by the kind of approach
3 they're taking. I would like to see that.

4 I don't remember if Mrs. Riordan made a motion,
5 but if we can modify it to take the staff recommendation,
6 run with it, along with the direction --

7 CHAIRPERSON NICHOLS: I'll treat that as a motion
8 and a second.

9 BOARD MEMBER ROBERTS: -- to accompany that with
10 a letter crafted with our concerns.

11 CHAIRPERSON NICHOLS: Thanks.

12 Ms. D'Adamo.

13 BOARD MEMBER D'ADAMO: I was going to suggest a
14 letter. So I think it's time to ratchet it up and maybe
15 calendar it for a report back and let EPA know that we
16 want to hear from them.

17 I would also suggest to the stakeholders that, if
18 they haven't done so already, contacting their
19 Congressional representatives so they can contact EPA on
20 your behalf as well.

21 CHAIRPERSON NICHOLS: Dr. Balmes.

22 BOARD MEMBER BALMES: I agree with my fellow
23 supervisors about dealing with the bureaucratic hurdles
24 that EPA is imposing.

25 But I think what I've heard in terms of testimony

1 today, both from people who want us to move forward and
2 approve the SIP versus the environmental groups that are
3 concerned about doing that, that there has been a lot of
4 progress in terms of people working together.

5 And a positive thing about this U.S. EPA
6 disapproval is that it's going to cause people to have to
7 continue to work together and make this move forward in a
8 positive way for stakeholders on both sides of the issue.
9 I just want to encourage that.

10 What I've heard today, it sounds like people are
11 moving closer together. And I'd like to think that our
12 agency has helped that process. I know that Lynn Terry
13 went down to at least one of these meetings, and I
14 encourage that.

15 I don't think it's in anybody's best interest to
16 have further litigation and fight over this. I think what
17 we need to do is come up with the best strategy to deal
18 with fugitive agricultural emissions, off-road vehicle,
19 and dust generation. And it sounds like people are moving
20 in the right direction, and we just need to encourage
21 that.

22 CHAIRPERSON NICHOLS: Yes, Mayor Loveridge.

23 BOARD MEMBER LOVERIDGE: Just a kind of statement
24 of question. EPA is agency, but it's also a people -- as
25 an elected official, I'd like to table the litigation.

1 But in terms of the EPA, it is more than an abstract
2 agency. There are people. There's regional offices.
3 There are national offices. I often thought EPA ought
4 to -- it'd be nice to have their presence here.

5 I guess, where did this kind of communication
6 come from? Particularly at the timing. And it seems to
7 me there ought to be ongoing consultations with CARB and
8 with the Imperial County District and so we would not have
9 this kind of last-minute surprise. And again I much
10 prefer testimony to this kind of letter.

11 EXECUTIVE OFFICER GOLDSTONE: Mayor Loveridge, we
12 have been working with the woman Deborah Jordan, who is
13 the director of air for Region 9. We've been having
14 discussions with EPA and the district that I think had
15 been and have been very positive. But there was a point
16 where she realized that it was likely that the Board would
17 act today to submit something that they felt like they
18 could not approve. And, of course, we disagree with their
19 rationale. So she sent this letter, I guess, in a
20 preemptive way.

21 What we'll do is work on developing a response to
22 that letter with Chairman Nichols' signature that would
23 either go to her or perhaps Gina McCarthy. We have to
24 decide who the best recipient of the letter is to make
25 sure this actually gets done and they follow through. And

1 we could also request their presence. And I know they
2 would come to present to us when we need them to come.

3 CHAIRPERSON NICHOLS: Yes, Ms. Berg.

4 BOARD MEMBER BERG: Good morning. I would like
5 to thank the witnesses. I think the witnesses today gave
6 us great information, were very credible, all of the
7 witnesses. So I personally want to thank you for coming
8 and your effort.

9 Could staff just remind me, as a result of the
10 recommendation, what actions are we going to take going
11 forward? And what actions are we asking the district or
12 what does our vote then cause the district also to take?
13 Can you put those two things in perspective for me?

14 AIR QUALITY DATA BRANCH CHIEF MAGLIANO: I'm
15 Karen Magliano, Chief of the Air Quality Data Branch.

16 In terms of the rule improvements that EPA is
17 looking at and development potentially of a new plan, we
18 are looking at the most productive approach would be to
19 have EPA work directly with the district to work out those
20 concerns.

21 I think the primary role of ARB at this time
22 would be to move forward with EPA on trying to get the
23 improvements that we need on the exceptional events
24 implementation process so that, as we move forward, future
25 events can be approved under this process. And as Ms.

1 Riordan said, this is something very applicable not only
2 to Imperial County, but many of the other air districts,
3 San Joaquin Valley, the Mojave Desert, et cetera.

4 BOARD MEMBER BERG: Is it fair to say that the
5 suggested improvements on the regulation part of the SIP
6 plan is not going to make a significant difference to
7 bringing the overall plan in compliance?

8 AIR QUALITY DATA BRANCH CHIEF MAGLIANO: That's
9 correct. They need to go ahead and do the rule
10 improvements for EPA's approval. However, as we mentioned
11 in the staff presentation, because EPA has essentially
12 indicated until these rule improvements are in place, they
13 cannot approve any exceptional event. We are really
14 looking to a new time period moving forward starting, say,
15 in 2011 once those rule improvements are in place at the
16 end of this year before we can have a process where EPA
17 could potentially approve future exceptional events and
18 have a whole plan.

19 BOARD MEMBER BERG: Are we kind of hoping that
20 the new time frame will have less exceptional events and
21 that we might have a window of time that will make the
22 numbers look better?

23 AIR QUALITY DATA BRANCH CHIEF MAGLIANO: It's
24 hard to predict. There's variability year to year. In
25 2006 and 2007, we had three. In 2008, we had nine. We

1 can't predict those natural wind-blown dust type of
2 events. It's possible that you could have a three-year
3 period that had none of those. But the alternative hope
4 would be that even if there were some in that period that
5 we worked out the process where EPA then can be in a
6 position to approve future exceptional events and still
7 develop a plan.

8 BOARD MEMBER BERG: It does feel to me that our
9 agency could take a lead and should take a lead in working
10 with EPA as my fellow Board members have pointed out. And
11 I very much would support that as well.

12 I feel very torn, I do want to say, of not
13 supporting the SIP and the effort and the great work that
14 has gone into it. So I think that we are in a very, very
15 difficult situation and I'm not happy about that. But I
16 would agree with moving forward.

17 CHAIRPERSON NICHOLS: Okay, yes.

18 BOARD MEMBER ROBERTS: One quick question.

19 The topic of agriculture burning came up. I was
20 wondering the status of those regulatory efforts. I know
21 San Joaquin has kind of a model program. I wondered to
22 what extent they mirror --

23 DEPUTY EXECUTIVE OFFICER TERRY: Actually, John
24 DaMassa is responsible for that program and he spent a
25 substantial amount of time working with the district on

1 improving that program over the last few months, so I'll
2 ask him to summarize what has happened.

3 BOARD MEMBER ROBERTS: That was brought up. If
4 there are things that we can do, we want to be doing them,
5 setting aside the dust and other things. But I thought we
6 could have a little more information on that.

7 MODELING & METEOROLOGY BRANCH CHIEF DA MASSA: As
8 you are probably aware, Title 17 is the California law
9 that requires that all districts have a Smoke Management
10 Plan that satisfies a number of elements. And all of the
11 districts at this point have submitted plans that do so.

12 We have been working with the district and
13 actually a number of districts over the last couple years
14 on improvements to the Smoke Management Plans. Imperial
15 County just recently submitted an amended Smoke Management
16 Plan, which did include some improvements to their
17 program. We are looking at that closely at this point in
18 time, and we'll be providing feedback to the district.

19 In addition, we're constantly evaluating the air
20 quality and metrological criteria that we use to make burn
21 decisions for each of the districts throughout the state.
22 And we're looking very closely at Imperial County and San
23 Joaquin as you indicated, although they do the bulk of
24 their burn forecasts themselves. But we are looking
25 closely at the criteria to see if there are improvements

1 we can make in working with the district to further
2 minimize smoke impacts to the public. So there are
3 ongoing efforts to improve the programs statewide.

4 BOARD MEMBER BALMES: Chair.

5 CHAIRPERSON NICHOLS: Yes.

6 BOARD MEMBER BALMES: I have a follow-up question
7 to Supervisor Roberts. So that dealt with the
8 agricultural burning issue. But one of the witnesses
9 testified that the technical document from EPA had made
10 comments about how Imperial County wasn't doing as much as
11 some other districts. I wanted to hear a little bit more.
12 Is that actually a correct statement or --

13 CHAIRPERSON NICHOLS: Yes. We've heard that
14 statement that there are some districts that have measures
15 to deal with the dust issues or smoke issues that have not
16 been adopted in Imperial.

17 DEPUTY EXECUTIVE OFFICER TERRY: Yeah. That gets
18 at EPA's action to partially approve and partially
19 disapprove the rules. And it's all linked back to the
20 exceptional events, unfortunately. So it isn't as if
21 under BACM every district or state has to do identical
22 rules. It depends on the significance of the source. And
23 so that's I think one of the complications here is that if
24 you assume that a dust storm is controllable, then it
25 leads to some interesting comments about the rule

1 expectations.

2 CHAIRPERSON NICHOLS: Okay. Perhaps we should
3 draw this to a close then.

4 I'm just going to restate what I think was the
5 recommendation, which is that we accept the staff
6 recommendation to hold the PM10 SIP at this time; that we
7 commit to working collaboratively with the district to
8 complete the rule modifications they've already agreed to,
9 as well as any other reasonable measures that could be
10 undertaken; and at the same time, that we also send a
11 letter to EPA to strongly urge them to reconsider the
12 approach they're taking on exceptional events and to make
13 it clear that this is not something that California will
14 support. I think informal conversations are good and
15 helpful, but this is one of those where we really need to
16 be more aggressive than we have been up until now.

17 So I'll ask you to signify by saying aye if you
18 agree with that.

19 (Ayes)

20 CHAIRPERSON NICHOLS: Opposed?

21 Okay. That will be our discussion then.

22 I think we need a five-minute break just to move
23 the staff that are here for this item to the next group.

24 (Thereupon a recess was taken.)

25 CHAIRPERSON NICHOLS: Just for purposes of

1 planning, we will take this item and then we will also
2 hopefully deal with the staff report on near roadway
3 monitoring, take public comment, and then break.

4 There is a Board executive session over lunch.
5 If any action is taken, we will report on that afterwards.
6 But I believe most of the Board will be -- we are assuming
7 that all of this, including the closed session over lunch,
8 will be completed by 2:00. That's our hope.

9 All right. We are now going to turn to the
10 report on the San Joaquin Valley Smoke Management Program
11 and consideration of modifications to agricultural burning
12 requirements. And I'll ask the staff to make their
13 presentation.

14 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
15 Nichols.

16 To meet the requirements of ARB's Smoke
17 Management Guidelines, the San Joaquin Valley Air
18 Pollution Control District developed a comprehensive Smoke
19 Management Program. While the San Joaquin Valley's
20 program regulates and effectively caps allowable
21 agricultural burning, in 2003, Senate Bill 705 was enacted
22 requiring the district to further limit agricultural
23 burning through a prescribed phase-out schedule. However,
24 the bill also recognized that economic and technological
25 impediments may exist that preclude the complete phase out

1 conditions. The system sets burning allocations in each
2 zone to amounts that would not cause a public nuisance,
3 impact smoke sensitive areas, or create or contribute to
4 an exceedance of federal air quality standards.

5 Due to the structure of the system, on any given
6 day, burning may be allowed in many zones. However, the
7 total amount of acreage allowed in each zone is limited to
8 prevent air quality impacts.

9 --o0o--

10 STAFF AIR POLLUTION SPECIALIST VELASCO: As
11 previously mentioned, ARB is charged under state law with
12 oversight of the State's Smoke Management Program. Since
13 the San Joaquin Valley has their own metrological staff,
14 the district makes daily burn/no burn calls. However, ARB
15 and the district consult daily to adequately address any
16 burning that has the potential to affect regional air
17 quality. The district also consults with ARB on technical
18 issues involving forecasting of air quality. For program
19 evaluation, the district must report all burning to ARB
20 annually.

21 --o0o--

22 STAFF AIR POLLUTION SPECIALIST VELASCO: As shown
23 in the slide, agricultural burning has significantly
24 decreased in the San Joaquin Valley. This figure depicts
25 the trend of PM2.5 emissions from agricultural burning in

1 and technological alternatives to the open burning of
2 agricultural waste materials may not exist, SB 705 allows
3 burn prohibitions to be postponed if specific conditions
4 are met. I will describe these conditions later in the
5 presentation.

6 --o0o--

7 STAFF AIR POLLUTION SPECIALIST VELASCO: The
8 district addressed the earlier requirements for SB 705
9 through previous amendments to their open burning rule.

10 In September of 2004, the district amended the
11 rule to allow for conditional permitting to authorize the
12 burning of diseased crops. The rule was further amended
13 in May of 2005 and May of 2007 to eliminate burning of
14 waste from field crops, prunings, orchard removals, and
15 weed abatement operations, and to establish best
16 management practices for other weeds. Postponements were
17 adopted for some crops per SB 705 criteria. ARB staff
18 concurred with these previous postponements.

19 --o0o--

20 STAFF AIR POLLUTION SPECIALIST VELASCO: The
21 district has adopted the final phase of the SB 705
22 prohibitions in two steps.

23 On April 15th, 2010, the district amended their
24 open burning rule to incorporate all SB 705 provisions,
25 including the criteria that must be followed to allow for

1 Association, and U.S. Bureau of Labor Statistics. The
2 district also collected information on the cost of burn
3 alternatives from orchard and vineyard removal contractors
4 and the agriculture industry.

5 --o0o--

6 STAFF AIR POLLUTION SPECIALIST VELASCO: Using
7 all of the information described in the previous slide,
8 the district used a return-on-sales metric to set a
9 threshold for determining whether an alternative was
10 economically feasible. That threshold is a ten percent
11 impact on profit. The cost of compliance represents the
12 difference in cost between use of the alternative and the
13 current open burning practice for the specific commodity.
14 If the differential of cost of compliance is greater than
15 ten percent of the profit, the alternative was not
16 considered economically feasible.

17 The San Joaquin Valley has used this metric in
18 all of its ongoing rulemakings. In addition, ARB uses a
19 similar metric with a ten percent threshold.

20 --o0o--

21 STAFF AIR POLLUTION SPECIALIST VELASCO: The
22 district's analysis identified a number of crops that will
23 no longer be allowed to burn. Growers in the San Joaquin
24 Valley are already using no burn alternatives to dispose
25 of some pruning materials, brooder paper, and dead goats.

1 Also it is common practice to shred grapevine and grape
2 cane prunings and incorporate them into the soil. Farmers
3 also shred fig prunings and leave them in place to
4 decompose. Brooder paper is sent to landfills, and
5 deceased goats are buried. Consequently, the burning of
6 these materials will be prohibited beginning on June 1,
7 2010.

8 --o0o--

9 STAFF AIR POLLUTION SPECIALIST VELASCO: Next,
10 there were several crops where only limited burning would
11 be allowed.

12 First, for large almond, walnut, and pecan
13 orchards, burning of the pruning is prohibited. For
14 smaller operations, the cost of shredding services becomes
15 much higher on a per acre basis and was not considered
16 economically feasible. Thus, for smaller farms, the
17 district has proposed allowing burning of only 20 acres
18 per year. Limited burning beyond this amount would only
19 be allowed based on the case by case analysis of
20 individual economic impacts.

21 Second, since June 2007, the district has
22 required a case by case economic justification for
23 permitting burns of orchard removals of 20 acres or less
24 in farms of greater than 100 cumulative acres. Based on
25 information collected as part of this effort in an updated

1 programs, long-term contracting, and other financial
2 mechanisms would help stimulate the investment necessary
3 to build the production capacity and infrastructure
4 needed.

5 --o0o--

6 STAFF AIR POLLUTION SPECIALIST VELASCO: The
7 third criteria in SB 705 is an analysis of the air quality
8 impacts of the burn postponements. The San Joaquin Valley
9 is currently designated non-attainment for the federal
10 PM2.5 and 8-hour ozone standard. While the proposed
11 postponements would allow some burning to continue, in
12 practice, burning is substantially limited by the
13 district's smoke management system. As described earlier,
14 the system limits burning of high pollution days in order
15 to prevent contribution to a violation of federal 8-hour
16 ozone and 24-hour PM2.5 standards.

17 In addition, per district policy, agricultural
18 burning is not allowed in specified zones when no burn
19 days have been declared for residential wood burning from
20 November through February, the PM2.5 high season in the
21 valley.

22 The ARB staff also has elevated the potential for
23 the limited remaining agricultural burning to contribute
24 to violations to the annual PM2.5 standard. Analyses were
25 done for Fresno and Bakersfield using emission inventory

1 data and speciated monitoring data. The estimated
2 contribution of remaining burning is less than 3 percent
3 in Fresno and less than 2 percent in Bakersfield.

4 --o0o--

5 STAFF AIR POLLUTION SPECIALIST VELASCO: ARB
6 staff finds that the district proposal meets the
7 requirements specified in state law. However, we would
8 like to continue to encourage expanded use of no burn
9 alternatives. Therefore, staff proposes a time-limited
10 concurrence with the district's postponement and a process
11 to help remove obstacles to further reductions in the
12 remaining agricultural burning in the San Joaquin Valley.

13 Staff proposes that ARB will:

14 Provide an initial two-year concurrence with the
15 district's postponements, work with the State Legislature,
16 California Energy Commission, and California Department of
17 Food and Agriculture to obtain incentive funding to
18 increase utilization of agricultural waste at biomass
19 facilities;

20 Work with the San Joaquin Valley Air Pollution
21 Control District and biomass waste-to-energy facilities to
22 develop permit conditions that will provide more certainty
23 regarding the use of agricultural wastes;

24 Reconsider, in 2012, ARB's concurrence based on
25 progress made to obtain incentive funding and any other

1 new information and provide for an extension of the
2 occurrence if the statutory criteria continue to be met.

3 This concludes my presentation, and we're happy
4 to answer any questions.

5 CHAIRPERSON NICHOLS: I do have a question,
6 actually, which I just flagged because this has not been a
7 major area of controversy. But the continued exemption
8 for burning for weed abatement affecting waterways, I find
9 this somewhat troubling, because the issue of worker
10 safety and water quality from doing anything other than
11 burning, why are they burning at all? I mean, why would
12 they be doing weed abatement in these areas unless it's to
13 allow for cultivation of the land in those areas? In
14 other words, if there's weeds there and they're not
15 hurting anything, why not just leave them there? Why not
16 burn them?

17 AIR QUALITY DATA BRANCH CHIEF MAGLIANO: I think
18 the issue is as the weeds grow larger and larger, they can
19 actually clog the waterways. So they do need to get rid
20 of the weeds themselves. That's where the concerns come
21 into play about what's the best mechanism for removing
22 them. And we do have issues if they used herbicides, you
23 would have water quality issues of runoff. Because these
24 are very steep banks, the worker safety issues --

25 CHAIRPERSON NICHOLS: I understand. But from my

1 previous life working on water quality issues, I'm
2 somewhat suspicious, because some of the things that are
3 labeled as weeds are weeds in the sense they're certainly
4 not productive crops. But on the other hand, they're not
5 doing any harm either. They're naturally occurring
6 vegetation that may have some benefits from a water
7 quality and habitat perspective.

8 STAFF AIR POLLUTION SPECIALIST VELASCO: There is
9 another issue. If the weeds grow, for example, around
10 levies, then you have the rodents can come and start
11 eating at the weeds and then they start excavating. And,
12 therefore, the levies could be a problem. So we don't
13 want any flooding.

14 CHAIRPERSON NICHOLS: Understood. That's a
15 better answer. Thank you.

16 Other questions before we turn to the witnesses?

17 If not, we'll call the witness list. We'll
18 begin -- we have another air pollution control official
19 with us this morning, Mr. Sadredin from the San Joaquin
20 Valley. We'll hear from Seyed first.

21 MR. SADREDIN: Good morning, Madam Chair, members
22 of the Board. It's a pleasure to be before you.

23 I filled out a neutral card on my speaking card,
24 because I'm not sure what you're about to do. Today seems
25 to be the day of the eleventh hour, twelfth hour and in

1 this case, maybe the thirteenth-hour decision making
2 process.

3 But if the Board is simply looking at the staff
4 recommendation, I do support the staff recommendation and
5 hope that you do support that.

6 I will take the good advice from Board Member
7 D'Adamo and use every ounce of my self-control not to
8 criticize the process. So I'll just focus on a couple of
9 technical issues.

10 Your staff did a great job of presenting the
11 facts with respect to this. I just wanted to add a couple
12 other points.

13 We do have the toughest fireplace curtailment
14 rule in the nation. And every time there was a prediction
15 that the PM2.5 concentration might reach 30 micrograms per
16 cubic meter, which is well below the 35 microgram per
17 cubic meter standard, we totally disallow any burning. So
18 any of these extensions you see on those days, about 50 to
19 100 days a year during the wintertime, no burning will be
20 allowed of any kind. So I wanted to make sure you
21 understand that.

22 Agricultural burning has already been reduced by
23 70 percent. If you approve this recommendation today, you
24 are moving towards 80, 90 percent elimination of
25 agricultural burning.

1 One point I wanted you to also consider is in
2 this rush hysteria to totally ban ag burning, the severe
3 detrimental public health impact of some of these
4 alternatives are being overlooked. It's not simply a
5 given fact that if you reduce agricultural burning you get
6 improvement in air quality. Some of these alternatives
7 have more severe air quality impacts that you should
8 really know about.

9 Diesel has been a big concern of yours. To get
10 the ag waste to these biomass facilities, first, you have
11 to use dirty diesel engines to grind them, to shred them,
12 and do it on the days where smoke management does not play
13 a role. You can do it any time of day; it's not
14 controlled like the ag burning is controlled. So diesel
15 carcinogen, a risk from shredding.

16 Then we have nine biomass power plants in the
17 valley, twelve if you include the Sacramento region, about
18 30,000 square miles. We have to get ag waste from 8,000
19 or more farms and ship them to these eight or nine, ten,
20 twelve biomass facilities. So a lot of truck emissions.
21 And those trucks, if you've seen them, they're not our
22 best trucks. These are not high yielding operations. And
23 they have to use the cheapest truck, the dirtiest truck,
24 the oldest truck we have. So a lot of emissions -- truck
25 emissions.

1 And then you take these waste-to-biomass
2 facilities, no question -- if I could get a minute or two.

3 CHAIRPERSON NICHOLS: Please.

4 MR. SADREDIN: If you look at pound per pound
5 open burning versus burning well-controlled biomass
6 facilities, there is 80, 90 percent reduction in
7 emissions. But we're talking about ten facilities being
8 located, some of them, in environmental justice areas with
9 the truck emissions, with the hot spots that we need to
10 consider.

11 So I ask that you consider that in this whole
12 rush to totally eliminate ag burning. That is certainly
13 something that we put in this 500-page report that your
14 staff worked very closely with us in putting together.
15 They did ask tough questions and held our feet to the
16 fire. And I think the report because of their work is
17 much better.

18 So I'm not sure exactly where you're going with
19 this. I had heard there might be a proposal to do a two-,
20 three-month kind of a deal. If that is still the case, I
21 have another suggestion that I think with a slight
22 difference may get you there and make everybody happy.

23 CHAIRPERSON NICHOLS: We're always interested in
24 suggestions that make everybody happy. So, please.

25 MR. SADREDIN: My understanding is that there is

1 an eleventh-hour deal to perhaps concur with the district,
2 but make those concurrences go away in two or three months
3 until you hear from the Senator on his hearing and any
4 findings that he might make.

5 My suggestion is with a slight difference, a
6 distinction, but not a lot of difference in terms of final
7 outcome, but I think it maintains the integrity of the
8 process. It reinforces the proud tradition that this
9 Board has had to always act based on the best available
10 information that is before you. It gives the Senator the
11 courtesy of hearing from him. You know, I think this will
12 get me a lot of unfriendly -- if I say anything nice about
13 Senator Florez, but he has been a leader in this area.
14 This is his legislation. And we need to hear from him.

15 So my suggestion is make the finding and set a
16 date certain to consider his report from his hearing, if
17 he's able to come up with his \$10 million to help biomass.
18 And then make a commitment that you will consider that in
19 two, three, four months, whenever appropriate, and make
20 changes as necessary, as opposed to totally circumventing
21 the public process that we've been engaged in, totally
22 ignore your reported and documented staff recommendation,
23 and also put the burden of proof where it belongs. If the
24 Senator is able and willing to be a helpful player in
25 this, you will definitely consider it. I would just

1 suggest that slight twist if that's where you are going.

2 Otherwise, I support the staff recommendation.

3 CHAIRPERSON NICHOLS: We will be hearing from the
4 Senator's representative later in the program. But I
5 appreciate that. It's a very constructive suggestion.

6 Ms. D'Adamo.

7 BOARD MEMBER D'ADAMO: I just had some questions
8 about what's going to get you to 80 percent. Right now,
9 you're at 70 percent reduction in ag burning. What's
10 going to get you to 80 percent or possibly 90 percent? Is
11 it the list of activities on slide 15? If we could get
12 that slide back up. Grapevine and cane pruning, et
13 cetera? Is there something more than that list?

14 MR. SADREDIN: First of all, we eliminated some
15 additional material that no longer could be burned. The
16 threshold for some of those case by case approvals or
17 small farm approvals has been lowered from 20 to 15 acres.
18 We are working very closely with the ag community to
19 develop alternatives.

20 There is a rule that is coming to my Board
21 concerning biomass power plants, solid fuel combustion
22 boilers. We are trying to encourage biomass facilities to
23 accept a higher percentage of ag waste. Historically,
24 they have been resistant to that. Right now, the economy
25 is down. So there isn't a lot of construction waste, so

1 they do take more ag waste now than they did. Under
2 normal circumstance, their preference is to simply take
3 the reliable better priced urban waste, unfortunately,
4 from the Bay Area and South Coast with all those trucks
5 bringing them to the valley, which is not something we
6 like. The rule itself will get us to 80 percent. These
7 additional measures we're pursuing will hopefully get us
8 to about 90 percent.

9 BOARD MEMBER D'ADAMO: And since you flagged the
10 issue of biomass, maybe as the witnesses come up, they can
11 comment on this issue about the challenges with getting
12 the product there. I don't know what more we can do.
13 But, obviously, with this additional time frame that we're
14 looking at, I think we need to take on a very strong role
15 with this. There's a lot of State and federal funding
16 going to those facilities.

17 And it just doesn't make sense that product is
18 trucked in from other areas outside the basin for them to
19 burn and then they're turning away product that needs to
20 find a home from within the valley. I know there are
21 obviously exceptions to that, as you say, with the economy
22 being down and all that. But we need to get those numbers
23 up.

24 MR. SADREDIN: One suggestion I might bring up:
25 As you consider your renewable fuels rule or policy in a

1 couple of months, that may be also one area where we could
2 give a better or a greater degree of credit to facilities
3 that use agricultural waste as opposed to urban waste.

4 CHAIRPERSON NICHOLS: Thank you. That's a very
5 good suggestion.

6 Yes, Dr. Telles.

7 BOARD MEMBER TELLES: Actually, it's kind of a
8 question and point to make. Slide 20, if everybody can
9 focus on that. And if Seyed can comment on this.

10 If I understand right, implementing this as it
11 stands doesn't effect any health violation or any
12 violation of any air quality standard in the valley. If
13 you look on slide 20, you kind of get an idea of how small
14 this impact is. And my understanding, in the valley,
15 Seyed was mentioning that the fireplace burning is a
16 significant thing. My understanding is it's three or four
17 times the impact of what we're seeing here in ag burning.
18 And there's really, from my understanding of this whole
19 process, there's no measurable violation of any health
20 standard if we implement. I just wonder, there's no
21 violation of any health standard on this proposal the way
22 it stands right now.

23 CHAIRPERSON NICHOLS: Understood. We're dealing
24 with a separate free-standing piece of legislation here
25 that was an attempt to totally phase out ag burning.

1 BOARD MEMBER TELLES: The legislation has been
2 very successful, and it has reduced ag burning 70, 80, 90
3 percent. And it has been a service for the valley.

4 And now we're down to a level of some crops which
5 are going to be difficult to address. And the legislation
6 has done a good job. I think Senator Florez should be
7 complimented for that. But I also want to point out the
8 goal has reached -- the health goal has been reached here.
9 And now we're dealing with some economic issues.

10 MR. SADREDIN: Just to give you a comparison,
11 during winter months, residential fireplaces contribute 30
12 percent to the PM2.5 concentrations that we see and bad
13 air quality days.

14 So this is really -- you know, people have
15 mentioned also using incentive funding to subsidize
16 shredding and helping these farmers get the material to
17 the biomass facilities perhaps at a more cost effective
18 way for them.

19 But I think that's the wrong thing to do, because
20 diesel combustion, NOx emissions, and the carcinogen
21 emissions you get from that is really what's causing all
22 the trouble in San Joaquin Valley. And if we direct a lot
23 of the resources here, it may make you feel good, but it
24 will have no impact on air quality.

25 CHAIRPERSON NICHOLS: I think that's a good

1 point. You know, one of the good things about AB 32 -- I
2 happen to think there are many -- but one of them is it's
3 pushed us into doing life cycle analyses and much more
4 holistic reviews of some of our policies. I think this is
5 one of those areas I think we do need to look at what the
6 full range of alternatives are, not for today, but
7 hopefully as we move forward in the future. There could
8 be opportunities for alternative-fueled chippers. We
9 haven't explored any of that really I think at this point.
10 So thank you for your very helpful testimony.

11 We'll hear next from Manuel Cunha and then
12 Shirley Batchman.

13 MR. CUHNA: Good morning, I guess, Madam Chairman
14 and Board members and staff. My name is Manuel Cuhna,
15 President of Nisei Farmers League.

16 The first comment is on behalf of all of the ag
17 groups in the valley that worked hard over the past year
18 and a half pulling together the documents that went to
19 your staff, but also went to the San Joaquin Valley Air
20 District to deal with economics and costs. And those
21 numbers worked very closely with the USDA Joe Glauber, who
22 is the head economist within USDA that I use for the
23 Federal Reserve Board when I'm getting information. So
24 that same information was used and presented to the staff
25 in cooperation with the Cooperative Extension Service U.S.

1 Davis.

2 That is the document that provides our farmers on
3 what the costs are to farm in this state. And when you
4 look at that, you really may want to say why are farmers
5 farming and losing the money they're losing? And every
6 month when I give my farm report to the United States
7 Treasury, it's not a pretty sight of economics. In this
8 state, it's 47 percent of our farmers are in the hole.
9 They're eating up their assets and eating up their equity;
10 that's how they survive. That's a shame. That's a
11 horrible shame.

12 But on this, I'm a little bit confused. And,
13 Madam Chair, maybe you can help with this. And I hope
14 this doesn't detract from the time, because I think some
15 of us are confused. I'm not sure what we're supporting
16 today. I do know this. And let me go through this, if
17 you don't mind. We support a five-year recommendation
18 that our Board adopted on the 20th of May. Two days ago,
19 I was contacted that there was some problems and there was
20 a two-year postponement from the five years and then we
21 would review all of the things that are necessary to see
22 if we can do any alternatives to that.

23 Then I get contacted last night, again not having
24 any input to any of these changes. Last night, after
25 coming from CalPoly interviewing one of the new presidents

1 on that campus, coming through the mountains, through 46,
2 a lot of mountains there, staying on the road, I get this
3 e-mail with -- not in my hand, but listening through my --
4 so I don't get a ticket either -- that things have now
5 changed to a three-month waiver stop. Again, no input to
6 us.

7 Now, I don't blame the staff. I don't blame the
8 Board. I blame the process that it's not fair. When we
9 spent so many months and years on this. And not having
10 any respect of calling us and saying this is coming down.
11 Because I don't know what the three-month delay is going
12 to do. I do know my farmers are going to push trees out
13 in a few days because the fruit -- the variety is not
14 productive. If they don't push them out, they're going to
15 have to irrigate them and waste water.

16 I just became quarantined in the San Joaquin
17 Valley.

18 If I could have a minute more, I would appreciate
19 that.

20 San Joaquin Valley/Fresno now is quarantined for
21 the vine-ripe -- grapevine moth. The number one
22 agriculture county in Fresno County has a five-mile
23 quarantine radius, which is impacting close to 700
24 farmers. And if you don't know what a quarantine is, let
25 me tell you, my farmers are getting calls from other

1 countries saying they're not going to buy their product
2 because of the moth.

3 I have to figure out what I need to do, if I have
4 farmers -- and I have five of them in a quarantine that do
5 not take care of their farms because they're broke. I'm
6 either going to have to doze the vineyards out and burn
7 them because that insect is living in there, or do I just
8 destroy the San Joaquin Valley of the billions of dollars
9 it creates across this country?

10 I'm lost on what the staff is recommending. I
11 know what I support is the five year, because that's what
12 we believed in. When I was contacted by staff for the
13 two years, I understand the length of needing some time to
14 hear from some other folks, but there was a process.

15 The only thing I ask -- and let me leave you with
16 this -- is honesty, trust, integrity, and respect. And I
17 look at two people, Lynn Terry, and Karen Magliano, and
18 John -- where's he at? In the back. When we worked and
19 developed the 60-some odd million dollar study, we trusted
20 and respected each other. When I said I was going to
21 bring money from Edwards Air Force Base, we did it, didn't
22 we, Karen? And Lynn, we did it, didn't we? And I always
23 came up with my respect of you folks to honor that.

24 The only thing I ask of you, you have to respect
25 our industry and treat us when we work hard to do things

1 to clean up the air. That's our goal. My farmers are not
2 to hurt anybody.

3 So again, I'm lost. I don't know what the
4 proposal is, but I do know that I have to support it. If
5 it's a two year, okay. We'll work with the staff to
6 figure out our problems. But I just would like to be in
7 the future -- I think I've been fair in contacting you
8 folks whenever we got problems.

9 And I thank you, Madam Chair, for the extra few
10 minutes. I apologize for that.

11 CHAIRPERSON NICHOLS: No problem. We will have a
12 discussion of this as soon as we hear from everybody.

13 MS. BATCHMAN: It is still morning, Madam Chair,
14 members of the Board.

15 I'm Shirley Batchman with California Citrus
16 Mutual, as you can tell, one of the commodities that is
17 being addressed in today's discussion.

18 But first of all, I, too, am thoroughly confused
19 about what we are discussing right now. Are you asking
20 for our opinion on the presentation that was given? Are
21 you looking for comments that I got two days ago on a two
22 year? Or are we to comment on the opinion that we heard
23 last night that this process has been hijacked and we are
24 now looking at a three month? I don't know which one I'm
25 to be commenting on right now, so I guess I need some

1 clarity there.

2 I do have some opinions about the five years.
3 We've worked hard. It has been well documented. We've
4 met with staff. They agreed that everything was in order.
5 Your recommendations show that.

6 What Seyed has just given you as an alternative,
7 I think there's value there in discussing that. I really
8 do.

9 But I will tell you -- and I can't tell you how
10 mad I was last night when I got a call that said that this
11 process was being hijacked because Senator Florez wanted
12 to further his political agenda. And make no mistake,
13 that is what that is. I work directly with Senator Florez
14 when he authored SB 705. The morning that bill was heard,
15 he called and said, "I have four criteria," which is what
16 you're discussing today. And he said, "Are you okay with
17 that? Is that something that you think that you could
18 support?" And I told the Senator those were worthy
19 criteria and that they should be evaluated before we move
20 forward. And I think we have met every one of those.

21 And for us to trust him -- as Manuel said,
22 agriculture, when we give you our word, it's our word.
23 And now we trusted. I trusted Dean Florez. I took him at
24 his word. And boy, what a fool we have been.

25 So as we go forward, I have a lot to say about

1 this process if it gets hijacked, because it certainly
2 impinges the credibility and integrity of the process.
3 And as we move forward, we have spent probably almost
4 six months to a year now working with your staff on the
5 farm equipment rule. I can't tell you how much time and
6 how much money we have spent to help you get a reliable
7 inventory.

8 And now I tell you, I question whether do we stay
9 with this. Or is any work that we bring to you, is it
10 going to be arbitrarily dismissed because you have been
11 given pressure by someone to further a political agenda?
12 You need to make the decision where we're going to go in
13 this venue. But I have to tell you, the trust is on thin
14 edge right now.

15 Thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 We have one more witness as far as I know. That
18 is Mark Arax who represents Senator Dean Florez.

19 MR. ARAX: Thank you for having us.

20 It's going to take a little bit more than three
21 minutes to unpack this.

22 CHAIRPERSON NICHOLS: That's all right. We've
23 given everybody a little more time. There's a smaller
24 number of witnesses.

25 MR. ARAX: My name is Mark Arax. I'm the Senior

1 Policy Director for Dean Florez and the consultant to the
2 Senator's Air Quality Committee.

3 You have a letter before you from Senator Florez.
4 It's a clear and I think cogent letter that expresses why
5 grape growers, citrus growers, and almond growers should
6 not be allowed to continue burning. I'm not going to read
7 from that letter but one paragraph.

8 Let me just frame this a little bit differently.
9 We're not just talking about -- some agricultural burning
10 has to happen. If you're a small raisin grower, 20 acres
11 in the town of Fowler and you have to pull out your
12 vineyard because of nematodes or something like that, you
13 can make a case that pulling out that vineyard and
14 removing those wires is not economically feasible for you
15 and you should burn.

16 What we're talking about is something different.
17 So this is not a total ban on ag burning. We're talking
18 about is what the district has done is exempted some of
19 the wealthiest and biggest farmers who happen to be grape
20 growers, citrus growers, and almond growers. And as we go
21 over the math here, I will tell you why I think the math
22 is very specious. And in some cases, the calculations are
23 dishonest. I'm not sure if it's intentionally so or not,
24 but that's the way it is and I hope to make that case.

25 The one paragraph I do want to read -- since this

1 thing is kind of fast moving and there's some confusion.

2 And this is straight from Senator Dean Florez' mouth.

3 "In the name of health and sound science, I'm
4 asking today that you delay for 60 days the
5 decision on the air district's flawed plan. This
6 brief delay will allow me to convene a hearing of
7 the Senate Select Committee on Air Quality. I'm
8 confident this hearing will reveal the dishonest
9 calculations the air district used in its staff
10 report to justify continued burning and lead CARB
11 to a much different decision on the local air
12 district's -- the merits of the local air
13 district's plan."

14 I'm the son of a grape grower, the grandson of a
15 raisin farmer. As an author, I've written a book called,
16 "The King of California," which is about the biggest
17 farmer in America. And I like to think I'm a big
18 supporter of agriculture.

19 We need to applaud agriculture, because many of
20 my friends who are growers stopped burning seven years
21 ago. They shred. They chip. I don't know if it's 70
22 percent reduction. I don't know where that number comes
23 from. But there has been a significant reduction. There
24 still is a great deal of agricultural burning that
25 continues. That's what we need to focus on.

1 Grape vines and citrus trees, just those two --
2 the uprooting of grapevines and citrus trees to plant a
3 new vineyard or orchard, today, they account for 62
4 percent of the farm material burned over the past three
5 years in the San Joaquin Valley. So I think it's
6 excellent that we can talk about farmers who have cut the
7 old practice of widespread burning by 70 percent. But by
8 the district's own calculation, this still leaves an
9 unacceptable amount of pollutants from ag burning: 1072
10 tons of NOx, 1388 tons of PM2.5, 1246 tons of VOCs, and
11 1476 tons of PM10.

12 You know, they talk about just 2 percent, 3
13 percent. Dr. Telles talked about that. But the 2 and 3
14 percent in an air district that is not close to achieving
15 federal standards is a significant amount of pollutants.
16 Okay. Let me -- all of this kind of is rooted in an
17 economic analysis that I want to unpack for a second here.

18 It's very tough to follow. There are 15
19 different crops, and each those crops has its own cultural
20 practice and some should be burned and some shouldn't.
21 And there's diseases and all this. But I want to focus on
22 just the big three -- and actually the big two: The
23 vineyards and citrus orchards. Those will be totally
24 exempt under the district's plan. They will be allowed to
25 continue burning.

1 How did they arrive at the conclusion that grape
2 growers and citrus growers should be allowed to continue
3 burning? Well, they put together an economic feasibility
4 study. And that study is problematic. We only discovered
5 these problems a month ago when we got the draft report.
6 We've been accused of doing this on the eleventh hour. It
7 was only when I saw the draft report and started going
8 through it that I started seeing some huge, huge problems
9 in the assumptions that were made, the assumptions that
10 underlie the conclusion. Let me just go over a couple of
11 those.

12 The air district gives a life span to the
13 vineyard and citrus orchard; it gives a life span of
14 ten years. Now, that's important, because that means that
15 farmer's only accruing profits off that vineyard and
16 orchard for ten years, and every ten years he has to
17 replace it. So there's these replacement costs. But that
18 ten years is a bogus number. The air district in its own
19 appendix sites these studies by the University of
20 California Cooperative Extension on almonds, on oranges,
21 and on several kinds of table grapes.

22 Let me tell you what this report finds on the
23 life span of each of those crops. On oranges, it says on
24 page 3, "Orange trees have a long production life if they
25 are well maintained. Life of the orchard is assumed to be

1 40 years."

2 Thompson seedless table grapes, page 3, "The
3 establishment cost of putting in an orchard is spread over
4 the remaining 22 years of the 25 years the vineyard is in
5 production," not ten.

6 Crimson seedless grapes, "The grapevines are
7 expected to begin yielding fruit in the third year and
8 then be productive for an additional 22 years."

9 Almonds, 25 years.

10 So when you've take the life span of something
11 and halved it, what you've done is you've created an
12 entire calculation that is wrong. So if you took the true
13 life span of these vineyards and citrus orchards and
14 almond groves and you played out the profits and the costs
15 over those 25 years, suddenly, your bottom line has
16 totally changed. It is economically feasible for those
17 farmers, the bigger ones especially, to send their stuff
18 to biomass or shred it. So the entire calculation
19 changes.

20 The air district -- I'm about to close here. The
21 air district finds incredibly so that to remove metal
22 posts and trellis wires from vines accounts for 45 percent
23 to 75 percent of a grape farmer's profit. I don't know
24 where this figure comes from.

25 Let me just play with a few numbers that are

1 based on some of my friends who are grape growers. You
2 have a table grape vineyard, which is very much different
3 than a raisin vineyard. The raisin vineyards, the profits
4 aren't all that high. The table grapes, much higher. In
5 many cases, \$2,000 pure profit an acre. So if you have
6 500 acres, you're a rather large grower. Your net profit
7 is a million dollars a year.

8 Let's assume that you have this profit for not 10
9 years, but 15 years of the 22-year life span, which is
10 based on the actual life span of that vine. What the
11 district has done is used an industrial equipment life
12 span that might hold true for the oil industry, but it
13 doesn't reflect the reality of trees and vines.

14 So that vineyard I just talked to you about over
15 the life span brings in a net profit in the range of \$10
16 million. Yet, the district incredibly comes to the
17 conclusion that hiring a crew of field hands to remove the
18 wires would consume 45 to 75 percent of those profits.
19 They must be paying those field hands a pretty sum for it
20 to be that.

21 So what I would ask on behalf of the Senator --
22 the process is kind of fast moving. We would like to have
23 a hearing, bring up the staff -- the district staff who
24 came up with this study to really, really puzzle out what
25 happened and to ask them some tough questions. We want

1 them to show their math. And until they do that and the
2 numbers prove otherwise, we feel that agricultural burning
3 needs to be banned for vineyard removal, citrus removal,
4 and for many almond growers who are removing their trees
5 or pruning them.

6 Thank you very much.

7 CHAIRPERSON NICHOLS: Thank you, Mark.

8 I suspect that people are going to have questions
9 to ask you and possibly others as well as we puzzle our
10 way through this.

11 But I just want to make sure that I'm accurately
12 stating what's actually before us at the moment. So the
13 reason why we're here today is because there is a June 1
14 deadline in statute by which all burning has to be stopped
15 in this region, unless the ARB concurs in the district's
16 recommendation to continue to allow certain crops to be
17 burned because of economic or technical infeasibility.

18 I don't think it would be appropriate based on
19 where we are today -- well, I should say ARB has to do
20 this concurrence. We're not asked to do our own study.
21 We're not asked to go out and reinvent the information
22 here, nor are we really in a position to do that. Our
23 staff did participate, I believe, quite extensively along
24 with the San Joaquin District. And, frankly, I think that
25 the burden is on those who believe that what they did was

1 inappropriate to justify that position.

2 I understand you've made some strong statements
3 here, and I assume you have additional backup information
4 and experts to bring to bear, which is why the Senator
5 wants to have this hearing.

6 I must say in terms of the people that critique
7 the process, it is unfortunate that this is playing itself
8 out in front of the ARB. We're a State agency. We
9 obviously have a role to play here because of the statute.
10 And we are required, I believe, to give a fair amount of
11 deference to the author of the legislation. Nevertheless,
12 I really think this is a discussion that should have taken
13 place with the district. I feel like we should be
14 mediating --

15 MR. ARAX: We tried to do that last week.

16 CHAIRPERSON NICHOLS: -- a conversation here, as
17 opposed to presiding in a hearing process.

18 So having said that it, it seemed to me that the
19 recommendation that we heard from Seyed is not that
20 different from what you're referring to --

21 MR. ARAX: I think it's pretty close.

22 CHAIRPERSON NICHOLS: So here we are.

23 The one thing I don't want to see happen is a ban
24 fall, you know, on June 1st that disrupts everything while
25 this is all cast into disarray.

1 So I guess I need to know from our attorneys how
2 we prevent that from happening if we were to grant a short
3 continuance on this item.

4 CHIEF COUNSEL JENNE: One option you have would
5 be to adopt the resolution that would concur with the
6 district's determination for, say, two or three months,
7 and then if new information comes up during that period of
8 time, you can re-visit that concurrence in a few months
9 and decide one way or the other.

10 So in other words, you would do a concurrence for
11 a limited duration or two or three months. That is a
12 possibility you would have, and we believe that's a legal
13 possibility that's authorized.

14 CHAIRPERSON NICHOLS: So it would be like a
15 60-day concurrence, in effect, but there would have to be
16 a date certain. I think it's correct that we can't just
17 leave this hanging.

18 Is that -- perhaps could we ask you to -- I'm
19 sorry to put you up here. But can we ask you to state
20 whether that does what you --

21 MR. ARAX: I think that's what the Senator
22 wanted.

23 What we want is a chance to have this hearing,
24 and we can do that in the next 60 days. And if the law is
25 only -- I mean, if this report is adopted just on a

1 temporary basis for 60 days, and then our hearing really
2 raises serious questions about the conclusions that were
3 made, then we can come back and the process can begin
4 anew, I guess.

5 CHAIRPERSON NICHOLS: I don't want to make any
6 presumptions, if there are serious factual allegations
7 about the report's inaccuracy. I have a considerable
8 amount of faith, which perhaps the Senator doesn't share,
9 that the district would want to correct the record itself.
10 I don't think we should start with any assumptions they're
11 not trying to do the best possible job of analysis that
12 they can.

13 But again, I know he's right in the back there.
14 If you don't mind sharing the podium for a second here.

15 MR. SADREDIN: I appreciate Mark mentioning that
16 he's okay with my suggestion.

17 Mine in a slight twist to what he suggested. And
18 I think it actually accomplishes the same thing, but it
19 really respects the process and really puts your Board in
20 a position to act based on best available science data
21 before you right now.

22 Instead of adopting a temporary concurrence, my
23 suggestion is that you vote to concur with the findings,
24 but make a commitment with a date certain to come back in
25 60 days, whatever, to reconsider. That way, you give the

1 Senator the courtesy I believe he deserves, but put the
2 burden of proof, as you stated, where it belongs; that
3 they have to come up with the information to undo your
4 concurrence. That was a distinction I was making.

5 CHAIRPERSON NICHOLS: I understand.

6 Comments -- sorry.

7 MR. ARAX: I don't think we would be comfortable
8 with that, I think, because it seems to have a certain
9 kind of permanence that would bother us. I like the
10 approach that you came up with, which is 60 days temporary
11 and then we come in with all this other information. We
12 vet it the way it should have been vetted in the first
13 place.

14 CHAIRPERSON NICHOLS: Well, I understand what
15 you're saying. But at the risk of offending a person who
16 I think has been a friend to the ARB and to air in
17 general, I think the comments that were made about the
18 process hold a lot of sway. I do feel that the -- not
19 just the district, who obviously we work with on a
20 day-to-day basis, but the agricultural community
21 participated in good faith. And clearly, this is a
22 last-minute change from their perspective. And people are
23 feeling whipsawed.

24 You'll have plenty of opportunity or the Senator
25 will to bring people in and cross-examine them very

1 effectively. If we set a date today to bring this back to
2 the Board, we can guarantee that there be an opportunity
3 for us to make a change if there is a need to change. So
4 I'm --

5 BOARD MEMBER ROBERTS: We have 90 days.

6 CHAIRPERSON NICHOLS: Oh, we have 90 days. It
7 would be September, the September Board meeting, where we
8 have many other interesting things on the agenda. We may
9 have to schedule it.

10 Dr. Telles.

11 BOARD MEMBER TELLES: You mentioned there is a
12 letter. I don't have a copy of that letter.

13 CHAIRPERSON NICHOLS: They were in our packets.
14 They just came in today.

15 BOARD MEMBER TELLES: Thank you.

16 You mentioned -- I read your book, by the way.
17 It's excellent. And --

18 CHAIRPERSON NICHOLS: I agree.

19 BOARD MEMBER TELLES: I wish everybody here would
20 read it. They would have a better understanding what
21 happens in the San Joaquin Valley.

22 You mentioned that Senator Florez in the name of
23 public health and science wanted to do these efforts here.
24 And if you're aware of any science that the public health
25 would be impacted by proceeding as is, I would be very

1 much -- would want that information. Because as I
2 understand, the public health really wouldn't be impacted
3 by the current way the thing currently reads. If you have
4 any information on that, I think that would be important
5 for at least me and the local district to understand.

6 MR. ARAX: I look at it a little differently.
7 The public health is impacted. I live in Fresno. Lived
8 there most of my life. When I speak at schools, I ask
9 kids to raise their hands who's on inhalers, and it stuns
10 me sometimes; one in two, one in three. So the public
11 health is impacted.

12 We have not -- we need every bit of clean that we
13 can get. So to thumb your nose at two and three percent,
14 if that is even true, four or five percent seems to me to
15 be the kind of arrogance that we can't afford in the San
16 Joaquin Valley.

17 BOARD MEMBER TELLES: The way the Smoke
18 Management Plan works is the burning does not occur at
19 times when it would be a violation of air quality. So if
20 there is a little bit of emissions at a time where there's
21 not an air quality violation, it's hard to document an
22 impact on public health.

23 MR. ARAX: That's a lot have moving parts. If
24 you drive through Hanford and Delano and Parlier on some
25 of the days when burning isn't allowed, you'll see a lot

1 of burning taking place.

2 BOARD MEMBER TELLES: Could I ask maybe some
3 specific comments or questions about the resolution?

4 CHAIRPERSON NICHOLS: Yes, certainly.

5 BOARD MEMBER TELLES: And maybe the Senator's
6 office can address these, too.

7 In Attachment A -- everybody have that? Many of
8 these things -- and they all should be recognized as
9 excellent points at the bottom there. "Worked with the
10 State Legislature and California Energy Commission and
11 California Department of Food and Agriculture to obtain
12 incentive funding to increase utilization of agricultural
13 waste at biomass facilities," what does that mean exactly?
14 Who is going to do this and how are we going to measure
15 progress in that sentence?

16 MR. ARAX: I'm not sure I can answer that.
17 That's beyond --

18 BOARD MEMBER TELLES: The reason I bring that up
19 is because every time we talk about biomass plants and
20 everything, we bring these things up and nobody takes
21 ownership of it. And I'm just wondering who is taking
22 ownership of this and who is going to move it on? Will
23 the Senator's office move it on?

24 MR. ARAX: I think so.

25 BOARD MEMBER TELLES: This is a basically

1 legislative thing that needs to be done. And we've
2 requested all these items to be done before, and nobody
3 has taken ownership of them.

4 CHAIRPERSON NICHOLS: Just in fairness, there is
5 a State Biomass Task Force, which is led by the Energy
6 Commission. I know my good friend and former ARB
7 Executive Officer Jim Boyd has devoted years of his life
8 to promoting this cause. I don't disagree that there is a
9 lot more that needs to be done. But I think there is some
10 ownership here.

11 I would agree that ARB itself could be more
12 active, but this could be a higher priority item. And I
13 would certainly like to have a commitment from the Senator
14 that this is one that he wants to pursue. But frankly, I
15 did have a conversation with him -- actually, I didn't
16 have a conversation. I had an exchange I guess with
17 him --

18 MR. ARAX: All e-mails.

19 CHAIRPERSON NICHOLS: By e-mail, yes, two days
20 ago in which he did make that commitment. And I believe I
21 give him every credibility in that regard. I think he is
22 sincerely motivated to try to move that along.

23 BOARD MEMBER TELLES: What I'm basically asking,
24 is there going to be a separate committee here that works
25 with the Senator's office and is going to work -- if we're

1 going to do this, we have to measure some progress we're
2 doing something rather than writing a sentence down. This
3 sentence has been written in this form many times.

4 CHAIRPERSON NICHOLS: I think that's a good
5 point.

6 BOARD MEMBER TELLES: We at our legislative
7 action in the San Joaquin Valley have been asking for this
8 for a long time, for some stability in the biomass plants.
9 And we are not getting anywhere. And it's now a part of
10 this resolution to me and it's meaningless unless somebody
11 owns it and --

12 MR. ARAX: I think we'll own it. I'm there. I
13 live just a few blocks away from the air district office.
14 I'll be in there working with the staff. And the
15 Senator's committed as well.

16 CHAIRPERSON NICHOLS: And I'll be more than happy
17 to nominate you, Dr. Telles, along with our other valley
18 resident as a Committee of two to continue to pursue this
19 item, if you're willing to accept that. Did you have --
20 yes.

21 BOARD MEMBER D'ADAMO: Maybe just some comments
22 to move this along.

23 I'll just say that it's a very tall order. I
24 know we've talked about this for many years. I think it
25 needs to be tied to funding. I think that's the only

1 thing that's going to get this moving along. The
2 facilities do receive funding, and we need to have some
3 requirements when they get those grants.

4 That's going to take more than two to three
5 months. And I really grappled with this. I think that
6 the district -- I have seen this issue progress in over
7 the last 10, 15 years from a "Hell, no, we don't go, we're
8 not going to let anybody tell us what we can burn and
9 can't burn," to a situation where we're looking at 80
10 percent.

11 And Seyed, maybe you can answer this question.
12 When this issue came before us in 2005 -- was it 2005 when
13 it came before us last -- where were we at this point and
14 how much further have we gotten since it came before us
15 last and now? Just to put this in perspective that we
16 keep -- no pun intended -- chipping away at these
17 emissions.

18 MR. SADREDIN: The graph that your staff had
19 showed the progress over the years, there has been a
20 50 percent reduction just from four or five years ago.

21 BOARD MEMBER D'ADAMO: So I think it's very
22 unfortunate that it has come to us in this setting,
23 because there's been a lot of collaboration at the
24 district.

25 And I agree with the Chairman. These issues

1 should be discussed at the district. And I understand
2 that there were representatives from Senator Florez'
3 office at the district. I believe the district had this
4 before it a week and a half ago. But there have been
5 numerous -- this didn't just come up a week ago. There's
6 been a long involved process that's been workshopped, a
7 number of meetings not just at the district, but with the
8 stakeholders and also ARB staff. And so I have faith in
9 that process.

10 Now, can the district do better? I think we can
11 always do better. I think certainly the Senator as the
12 author of the legislation, he deserves a courtesy. But my
13 boss is a member of Congress. And when he writes a letter
14 demanding things, we don't always get our way. So I'm
15 looking for a way to move this forward.

16 I do think that what's missing here in the
17 discussion is that growers do need some level of
18 certainty. I don't know if we have the time right now,
19 but you know, I think Shirley Batchman could probably
20 answer this question about growers that have to pull
21 trees, remove vineyards, remove orchards, and have they
22 already put in their orders for new trees? If this ban
23 doesn't go forward or if this allowance doesn't go
24 forward, what are growers supposed to do? Leave the trees
25 that are not productive in the field? I'm not talking

1 about a tree that's diseased. We know we have an
2 exemption for that. But do we just put water on those
3 trees if it was selective removal? We have a water supply
4 crisis in the valley. It doesn't make sense to put water
5 on trees that are slated for removal. So there are a lot
6 of questions that are raised I think with us not going
7 forward. I think for a couple of months, you know, we can
8 deal with that, but we have to get on this and move
9 forward.

10 I'm comfortable with adopting the staff's
11 recommendation of two years, but calendaring it and really
12 being serious about listening to the Senator. Let him
13 have his hearing, and we have it on our calendar to bring
14 it back. I don't know if the Board would go along with
15 that or not, but I'm committed to having further
16 discussions. I'm willing to spend a little bit more of my
17 time to move this along.

18 But I think ultimately we're going to end up
19 where we are right now with the staff's recommendation.
20 And the real progress that needs to be made I think are in
21 two areas: Biomass; and secondly, a better relationship
22 between the Senator and the district. That's where those
23 discussions need to take place.

24 CHAIRPERSON NICHOLS: Well, I will accept that as
25 a resolution or a motion. And it's been seconded now that

1 we would adopt the staff recommendation of a concurrence
2 that would be effective for two years, but we would also
3 then schedule -- calendar a Board hearing to review new
4 information that may be developed over a 90-day period.
5 And obviously that would permit, if the information
6 justifies it, a withdrawal of the concurrence or change in
7 the concurrence. But up until that time, we will have
8 concurred. That's the motion and a second.

9 BOARD MEMBER TELLES: Point of clarification.

10 What does a concurrence mean? What happens at two years?

11 CHAIRPERSON NICHOLS: We would have to redo that.
12 The district would have to come back.

13 BOARD MEMBER TELLES: Does it mean the whole rule
14 is redone or what does that mean --

15 CHAIRPERSON NICHOLS: Any changes would have to
16 be -- you're back to the square of having to justify
17 continued burning of everything that you wish to burn
18 after two years.

19 CHIEF COUNSEL JENNE: If I could clarify what I
20 heard with the motion is I understand that the Board would
21 concur today with the district's determinations as
22 mentioned in the resolution. And there would be a
23 condition that if the Board determines in the future that
24 the criteria as specified in statute are not met, the
25 Board would reserve the right to withdraw its concurrence.

1 Is that what the motion was?

2 CHAIRPERSON NICHOLS: Yes. And we would calendar
3 a hearing on that item within 90 days.

4 BOARD MEMBER BALMES: Just a point of
5 clarification. The concurrence was for two years.

6 CHAIRPERSON NICHOLS: The concurrence itself.

7 CHIEF COUNSEL JENNE: The concurrence is for
8 two years with the condition that if during that two-year
9 period the Board were to decide, gee, at this point the
10 conditions specified in statute were not met, we could
11 withdraw the concurrence and make a different
12 determination.

13 CHAIRPERSON NICHOLS: Correct.

14 CHIEF COUNSEL JENNE: You would have the option
15 to look at each specific crop and decide on each specific
16 basis whether the determinations are met for that crop or
17 not.

18 EXECUTIVE OFFICER GOLDSTENE: So along with this,
19 we would make a date certain commitment within the next
20 few months to get feedback from the Senator's hearing.

21 CHAIRPERSON NICHOLS: Yes. Absolutely. And that
22 would be the basis for the hearing, unless he requests
23 that we not hold it. And I suppose we could decide not to
24 hold the hearing, but the resolution is we will hold the
25 hearing and receive the information that will come from

1 the Senator's hearing and any other information that may
2 be submitted.

3 BOARD MEMBER BERG: I'd just like to mention that
4 I'm very mindful that the alternatives need to be also
5 very health based and to look at unintended consequences
6 of those alternatives. And being in business, I see
7 figures all the time. And we look for figures. But when
8 we really sit down and analyze what the possibilities are,
9 we really need to constantly ask what are the unintended
10 consequences.

11 So I would encourage the hearing to also not only
12 challenge the figures, which I think absolutely is
13 appropriate, but in looking at the alternatives what are
14 the impacts of those.

15 Thank you.

16 BOARD MEMBER TELLES: In that regards, are you
17 suggesting that we do a life cycle analysis of carrying
18 some chip material from the field from Porterville to
19 Mendota? That's basically what has to be done.

20 BOARD MEMBER BERG: I'm saying I'm very
21 uncomfortable trying to second guess on a limited amount
22 of information which alternative is better and not, you
23 know, just from my own perspective.

24 CHAIRPERSON NICHOLS: To be feasible an
25 alternative, if we're going to make a finding that there

1 are no feasible alternatives --

2 BOARD MEMBER TELLES: That's kind of a
3 complicated thing to do. Is the Senator's office going to
4 do that? Or is the local district or the ARB?

5 CHAIRPERSON NICHOLS: Seyed?

6 MR. SADREDIN: We would be more than happy to do
7 that. In this report, we did do some of that which showed
8 there are potential areas of problems along the lines
9 that --

10 CHAIRPERSON NICHOLS: We would also like to hear
11 from the affected parties and the industry and from I
12 think from the Senator's office as well. Because you
13 know, these are matters of opinion or shading to some
14 degree. There will be data, but there will also be
15 questions. And so I think we're going to have to look at
16 that.

17 BOARD MEMBER RIORDAN: Madam Chairman, I was
18 going to say something after the motion, but I think it's
19 appropriate here.

20 As I heard the Senator's office and the
21 testimony, I heard you say you were going to look at the
22 report and challenge the staff in the preparation of the
23 report. I think you need to go further, and I'm going to
24 make the assumption and hope that you would never forget
25 to consult and hear from the growers, because I think

1 they're very critical to understand what is happening.

2 And I say that, and I know you talked a little
3 bit about your background being agricultural. My
4 background is the same.

5 Some of what you pointed out is accurate from my
6 basis of knowledge regarding citrus. However, I also know
7 that my basis of knowledge is now probably 30 years ago,
8 and there may be new techniques raising certain crops that
9 weren't done 30 years ago. I don't know.

10 But the point of my concern is I very much want
11 to have included in the testimony the Senator is going to
12 hear that from the growers themselves. It's critical to
13 making this all work. Because we can theorize all we want
14 to theorize and all our numbers, but unless you truly
15 understand how it is to raise the crop, you've missed the
16 whole thing. So I see your head nodding.

17 MR. ARAX: In the last week alone, I've talked to
18 six, seven growers. I talked to one of the authors of the
19 very University of California Cooperative Extension
20 reports the district used. This is when I found out in
21 these reports the life span was double, triple, quadruple
22 what the district had used.

23 So we are committed to talking to all those
24 folks. I won't use the word "stakeholders," because I
25 think that's become -- it's a cliché now. We will talk to

1 everybody who has a strong interest in this issue.

2 Thank you.

3 CHAIRPERSON NICHOLS: Thank you very much.

4 BOARD MEMBER TELLES: One final comment, please.

5 CHAIRPERSON NICHOLS: Yes, sir.

6 BOARD MEMBER TELLES: And this is for Mr. Arax's
7 benefit.

8 To my perception, the weakest link in the whole
9 process is not the grower -- although the price is very
10 important what the grower gets for the chips. The price
11 of the chips is important for the grower because it will
12 reduce his cost. But the weakest link is really the
13 chipper shredder. And with ARB, we're about to eliminate
14 the chipper shredder industry because of the off-road
15 rule. And I don't think there's many chipper shredders
16 out there who are compliant with the diesel regulations
17 that we have, and they're at the bottom of the food chain.
18 They have all this equipment and they potentially are
19 threatened to go out of business with the off-road rule
20 that's coming up.

21 CHAIRPERSON NICHOLS: With all due respect, we
22 can defer that discussion to another day. But I'm not
23 going to let the statement stand we are going to do away
24 with that industry. That will not happen. But I
25 understand the concern and it has to be factored in.

1 BOARD MEMBER TELLES: Thank you.

2 CHAIRPERSON NICHOLS: All right. We have a
3 resolution in front of us with a second.

4 Are we prepared to vote at this time? All right.

5 All those in favor of the resolution, please
6 signify by saying aye.

7 (Ayes)

8 CHAIRPERSON NICHOLS: Opposed?

9 Good. Carries. Thank you. Very much.

10 CHIEF COUNSEL JENNE: Just to clarify, the
11 resolution was approved with the modifications we
12 discussed earlier.

13 CHAIRPERSON NICHOLS: Yes. Correct. With the
14 modifications, exactly.

15 We have a brief report on the new EPA monitoring
16 requirements. The person that requested that briefing
17 isn't in the room at the moment, but it will take a minute
18 to get this organized.

19 EXECUTIVE OFFICER GOLDSTENE: Given the fact that
20 Dr. Balmes had to go, we could continue this to the next
21 Board meeting if you wanted to.

22 CHAIRPERSON NICHOLS: I'm sorry. Did he leave?

23 EXECUTIVE OFFICER GOLDSTENE: I think he had to
24 catch a flight.

25 CHAIRPERSON NICHOLS: I'm sorry. I didn't

1 realize he left.

2 EXECUTIVE OFFICER GOLDSTENE: So that is an
3 option if you want to continue this.

4 CHAIRPERSON NICHOLS: I think that would be fine.
5 I think mostly what he wanted was to have a briefing
6 occurring as opposed to at this moment. So we can
7 certainly defer it and just go directly to the general
8 public comment then.

9 We do have time reserved for members of the
10 public who simply want to comment. And so there's one,
11 Patty Krebs of the IEA.

12 MS. KREBS: Chair Nichols, members of the Board,
13 welcome. We're really glad you're having a meeting here
14 in San Diego.

15 We're a local industry group. We have very
16 diverse types of companies within our association. AB 32
17 is always on our agenda every month, every Air Committee
18 meeting. While you were here, I thought I would just take
19 a minute and give you feedback on what companies are
20 talking about and what we're hearing as the whole process
21 unfolds.

22 Certainly, everyone really appreciates the
23 State's leadership on the green jobs, developing the new
24 technologies, and driving the energy efficiency programs.
25 That's all good. It's good for business. And very glad

1 to see that happening.

2 But as AB 32 progresses on, we get many questions
3 and areas of uncertainty. So I thought I would quickly
4 run through what some of the common themes are so you can
5 hear what the companies who aren't in the mainstream in
6 Sacramento every day, what they're thinking about.

7 First, the magnitude and complexity of the
8 program; it's really difficult for many companies to keep
9 up to date. They don't have the sufficient information
10 and the understanding of all the different parts and
11 aspects of the program to drill down into being able to
12 actually determine how will it effect my facilities, my
13 operations, my future business, and my costs.

14 Your webinars are great. Every time I've called
15 the staff, they've been very helpful in answering our
16 questions. But the amount of time required to really
17 track this and monitor it is quite overwhelming.

18 The second thing we hear frequently is early
19 action credit. San Diego has some very progressive
20 companies. They've for many years taken steps to improve
21 their buildings, improve their energy efficiencies. They
22 want to know when and how will they get the credit.

23 Another issue is the consistency of protocols and
24 formats. We had a number of companies in the California
25 Climate Action Registry. That work then was not

1 transferred over when the ARB adopted a different
2 approach. So we would urge you to do everything possible
3 through registries, through the federal government program
4 to coordinate and recognize the work that has already been
5 done and make it applicable to what they have to do in the
6 future.

7 We always have questions on some of the critical
8 elements of the program: How it will work; what is the
9 future role, if there is one, for the local districts and
10 permitting, auditing, reporting; which sources and
11 companies will be capped; and how will companies get their
12 baselines. Those are all things they're very anxious
13 about.

14 And probably the last thing is what many of them
15 feel to be the disproportionate attention on the new jobs.
16 They work for great companies. They feel the focus, the
17 incentives, the emphasis all seem to be on bringing
18 something new in, whereas they would like to see equal
19 attention to how to keep their companies here, how to
20 protect the existing operations and jobs and how to help
21 them get through this AB 32 process and be in compliance.

22 We realize that it is a major work still in
23 progress, but we hope these were some constructive
24 comments we made. And we thank you for your time.

25 CHAIRPERSON NICHOLS: Those are excellent

1 comments. If you wouldn't mind, would you leave a
2 business card so that we could get in touch with you as we
3 go along?

4 MS. KREBS: Sure.

5 CHAIRPERSON NICHOLS: You're probably on various
6 mailing lists. We appreciate that. Thank you.

7 That's it for the public comment. We do have an
8 executive session scheduled to discuss litigation. So we
9 will recess. And at the end of the executive session, I
10 or someone will come out and make an announcement of what
11 decisions, if any, were made at that meeting. And then we
12 will adjourn after that. So that's it.

13 (Thereupon the Board recessed into Executive
14 Session at 12:35 PM.)

15 ASSISTANT CHIEF COUNSEL JENNE: This is Bob
16 Jenne, Assistant Chief Counsel of the Air Resources Board.
17 And Mary Nichols asked me to come out here and say that we
18 have concluded the closed session of the Air Resources
19 Board and to announce that no action was taken by the
20 Board.

21 So with the conclusion of the closed session, the
22 Air Resources Board meeting this day has come to an end,
23 and we'll close the record.

24 (Thereupon the California Air Resources Board
25 adjourned at 1:30 p.m.)

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 3rd day of June, 2010.

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TIFFANY C. KRAFT, CSR, RPR

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Certified Shorthand Reporter

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