

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

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

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JAMES F. PETERS, CSR, RPR
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APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Dorene D'Adamo

Mr. Ronald Loveridge

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John Telles

Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Mr. Tom Cackette, Chief Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Mr. Mike Scheible, Deputy Executive Officer

Ms. Lynn Terry, Deputy Executive Officer

Mr. Gerhard Achtelik, Zero Emission Vehicle Infrastructure
Section

Ms. Analisa Bevan, Chief, Sustainable Transportation
Technology Branch

Mr. Bart Croes, Chief, Research Division

Mr. Bob Cross, Chief, Mobile Source Control Division

APPEARANCES CONTINUED

STAFF

Mr. Craig Duehring, Zero Emission Vehicle Infrastructure Section

Dr. Susan Fischer, Climate Action and Research Planning

Ms. Kim Heroy-Rogalski, Off-Road Implementation Section

Mr. Bob Jenne, Assistant Chief Counsel

Dr. Eileen McCauley, Atmospheric Processes Research Section

Ms. Elizabeth White, Mobile Sources Control Division

Mr. Erik White, Chief, Heavy Duty Diesel In-Use Strategies Branch

ALSO PRESENT

Mr. Charlie Cox, Ironman

Ms. Debbie Day, Engineering & General Contractors Association

Mr. William E. Davis, Southern California Contractors Association

Ms. Lynn Devine, American Lung Association

Mr. John Dunlap, American Home Furnishings Alliance

Mr. Sean Edgar, Clean Fleets Coalition

Mr. Scott Erreca, Erreca Inc.

Mr. Jeff Farano, SA Recycling

Mr. James Gaspard, Design Line

Mr. Joshua Goldman, Proterra

Mr. Bill Guerry, National Marine Manufacturers Association

Mr. Henry Hogo, South Coast Air Quality Management District

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Mike Hursh, Santa Clara VTA

Mr. Glenn Inverso, M.J. Baxter Drilling Co.

Mr. Paul Jablonski, Metropolitan Transit System

Dr. William Jefferds, Southwest Defense Alliance

Mr. Joseph Kubsh, Manufacturers of Emission Control Association

Ms. Dana Lee, Long Beach Transit

Mr. Bob Leiter, San Diego Association of Governments

Mr. Jamie Levin, Alameda-Contra Costa Transit District

Mr. Michael Lewis, Construction Industry Air Quality Coalition

Mr. Clayton Miller, Construction Industry Air Quality Coalition

Mr. Steven Miller, Golden Gate Bridge Highway & Transportation District

Mr. Jim McElroy, California Transit Association

Mr. John Paliwoda, California Motorcycle Dealers Association

Dr. David Parrish, National Oceanic and Atmospheric Administration

Mr. H.E. Christian Peeples, Alameda-Contra Costa Transit District

Mr. Nick Pfeifer, Granite Construction

Mr. Tim Pohle, Air Transport Association

Mr. Durand Ral, Omnitrans

Ms. Alexandria Sanchez, Field Rep for Assemblyman Joel Anderson

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Mike Shaw, Perry & Shaw, Inc.

Mr. Kenneth Stewart, UTC Power

Mr. Tom Swenson, Cleaire Emission Controls

Mr. Glen Tepke, Metropolitan Transportation Commission

Ms. Kerri Toepfer

Mr. Gene Walker, Golden Gate Bridge Highway &
Transportation District

Ms. Donna Wilson, Outdoor Power Equipment Institute

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1 PROCEEDINGS

2 CHAIRPERSON NICHOLS: Good morning, ladies and
3 gentlemen. This is our first meeting of the Air Resources
4 Board in this particular chamber, which is why we're
5 having a little lesson in how to operate our microphones
6 and acclimatizing ourselves. But we are very happy to be
7 in this lovely building, and we want to thank Supervisor
8 Roberts for having invited us down here and been such a
9 good guide and host. And if the Chamber of Commerce isn't
10 paying him to be an advocate for San Diego, they should,
11 because he is a terrific exponent for all the good things
12 that are happening here in San Diego.

13 So --

14 BOARD MEMBER ROBERTS: Could I officially
15 welcome you.

16 CHAIRPERSON NICHOLS: -- I think we have official
17 remarks.

18 Please.

19 BOARD MEMBER ROBERTS: We have a couple local
20 blogs who will probably find a great relationship between
21 this Board meeting here and the Comic-Con convention
22 that's going on. And I hope you won't be insulted by any
23 of that. I've learned to ignore most of them.

24 But I appreciate you coming to San Diego.
25 Because the work that this Board has done over the years

1 is so significant, I think it's good throughout the State
2 for people to have a better chance to see in person and
3 hold accountable as need be those who are making the
4 decisions.

5 But we hope you have a good visit in addition to
6 this meeting.

7 CHAIRPERSON NICHOLS: Well, thank you. I was
8 going to say that yesterday I encountered quite a number
9 of people who are here in town for the Comic-Con as I was
10 walking around downtown San Diego. And I was actually
11 thinking about trying to get myself a big fuzzy purple
12 wig, but I couldn't find one anywhere. So I'm kind of
13 stuck with --

14 BOARD MEMBER ROBERTS: We'll have one before the
15 meeting's over.

16 CHAIRPERSON NICHOLS: Thank you very much.

17 And we appreciate the leadership of San Diego on
18 air quality issues. And actually, as you know, I was here
19 yesterday in order to announce a grant from the federal
20 stimulus money for the San Diego School District to use
21 for retrofitting buses. Supervisor Roberts was with me.
22 We had a nice turnout of people from the community college
23 who are actually working on doing the retrofits as well as
24 the local company that is manufacturing a number of the
25 devices. And it was really a well attended press

1 conference and a wonderful project.

2 BOARD MEMBER ROBERTS: For the other Board
3 members, in attendance at that meeting was our Executive
4 Director of the local San Diego Air Pollution Control
5 District. He's in the audience. I'm going to ask him to
6 stand just so I can introduce him. Bob Kard, who's been
7 here a little bit over a year now, a Californian that got
8 lost for awhile over in Arizona and has come back, and is
9 doing a terrific job for us.

10 MR. KARD: Good morning, Board members, Chairman
11 Nichols. Thank you for your being here today. We wish
12 you a warm welcome.

13 I also want to express my appreciation for all
14 the things you've done over the years. I've been in air
15 pollution roughly 28 years now throughout California,
16 brief time in Arizona, couldn't wait to return.

17 But you folks really are cutting edge. And as I
18 said yesterday, I think the air pollution efforts
19 represent the best of the best in government. And so
20 thank you for being here, thank you for all your efforts.
21 And if there's anything I can do for you, feel free to
22 call upon me.

23 Thank you.

24 CHAIRPERSON NICHOLS: Well, you've done a good
25 job with the air quality today, so we appreciate it.

1 MR. KARD: Thank you.

2 CHAIRPERSON NICHOLS: Thank you.

3 All right. With that, I think the public meeting
4 will officially come to order and we will begin with the
5 Pledge of Allegiance if folks will stand and face the
6 flags, which are behind us.

7 (Thereupon the Pledge of Allegiance was
8 Recited in unison.)

9 CHAIRPERSON NICHOLS: The clerk will please call
10 the roll.

11 BOARD CLERK VEJAR: Dr. Balmes?

12 BOARD MEMBER BALMS: Here.

13 BOARD CLERK VEJAR: Ms. Berg?

14 BOARD MEMBER BERG: Here.

15 BOARD CLERK VEJAR: Ms. D'Adamo?

16 BOARD MEMBER D'ADAMO: Here.

17 BOARD CLERK VEJAR: Ms. Kennard?

18 Mayor Loveridge?

19 BOARD MEMBER LOVERIDGE: Here.

20 BOARD CLERK VEJAR: Mrs. Riordan?

21 BOARD MEMBER RIORDAN: Here.

22 BOARD CLERK VEJAR: Supervisor Roberts?

23 BOARD MEMBER ROBERTS: Here.

24 BOARD CLERK VEJAR: Professor Sperling?

25 BOARD MEMBER SPERLING: Here.

1 BOARD CLERK VEJAR: Dr. Telles?

2 BOARD MEMBER TELLES: Present.

3 BOARD CLERK VEJAR: Supervisor Yeager?

4 BOARD MEMBER YEAGER: Here.

5 BOARD CLERK VEJAR: Chairman Nichols?

6 CHAIRPERSON NICHOLS: Here.

7 BOARD CLERK VEJAR: Madam Chairman, we have a
8 quorum.

9 CHAIRPERSON NICHOLS: Thank you very much.

10 A couple of announcements.

11 If there's anyone who's not familiar with our
12 process, if you are planning to testify on any item, we
13 appreciate it if you would fill out a card with the staff
14 and turn it in. You have the option to include your name,
15 but it's not required.

16 Also, we will be imposing our usual three-minute
17 time limit on speakers. We appreciate it if when you come
18 up to the podium, you simply give your name and then
19 summarize your testimony briefly. Your written testimony,
20 if you have any, will be entered into the record.

21 As I understand it, because this building is new
22 to us, we have an exit at the back of the room there. In
23 the event that we were required to evacuate the building
24 due to fire or some other emergency, there would be
25 flashing lights and sound and some spoken instructions as

1 well, and we would be asked to exit immediately either in
2 the back or here in the front.

3 In the event of an emergency, we're asked to walk
4 to the nearest exit, proceed down the stairs and out of
5 the building. The elevators will be inoperable.

6 And I think that's all I have by way of
7 housekeeping announcements.

8 The first item on the agenda is an informational
9 update from the realm of climate science. Board members
10 have asked for staff to provide us with regular updates on
11 recent research. Today's presentation will highlight some
12 findings that were presented at a recent ARB-sponsored
13 symposium in Sacramento known as the Haagen-Smit
14 Symposium.

15 Mr. Goldstene, would you please introduce this
16 item.

17 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
18 Nichols. Good morning, Board members.

19 In June, ARB held its ninth annual Haagen-Smit
20 Symposium in honor of the late Dr. Arie J. Haagen-Smit,
21 our first chairman and pioneer in air pollution science
22 and regulation.

23 The 2009 Haagen-Smit Symposium brought together a
24 distinguished and influential group of policymakers and
25 leading researchers to discuss climate-forcing pollution

1 that is not fully addressed by current climate policy,
2 such as non-Kyoto Protocol pollutants like black carbon.

3 Dr. Susan Fischer of the Research Division will
4 provide an overview of the symposium and the policy
5 implications.

6 Dr. Fischer.

7 (Thereupon an overhead presentation was
8 Presented as follows.)

9 DR. FISCHER: Thank you, Mr. Goldstene.
10 Good morning, Chairman Nichols of the Board.

11 Today's climate change science update focuses on
12 findings presented at the recent Haagen-Smit Symposium,
13 which brought 80 influential decision makers and
14 researchers to Sacramento to exchange ideas at the
15 intersection of climate policy and emerging science

16 Professor Arie Haagen-Smit, for whom the
17 symposium is named, is shown here operating an earlier
18 mobile monitoring platform to research photo chemical smog
19 in 1950s Los Angeles.

20 --o0o--

21 DR. FISCHER: Since 2001, at the direction of the
22 our former Chairman, Allen Lloyd, ARB has sponsored annual
23 symposium to foster discussion and interaction among
24 policymakers, researchers, environmental and health
25 advocates, and other stakeholders.

1 system beyond critical thresholds.

2 --o0o--

3 DR. FISCHER: The magnitude of recent emissions,
4 strength of positive feedbacks, and specter of hidden
5 warming underscore the need to make dramatic emissions
6 reductions as soon as possible.

7 In addition to reducing total warming, we must
8 target reductions that will slow the rate of warming to
9 avoid pushing the climate system beyond critical
10 thresholds during the climate stabilization period.

11 The graph shown on this slide shows the IPCC's 90
12 percent confident range for the committed warming that
13 will result from emissions already released. Past
14 emissions commit us to approximately 2.4 degrees Celsius
15 warming, which, as you see on this graph, puts us at risk
16 for dangerous changes to the climate. At present, we have
17 only realized 25 percent of the committed warming since
18 some of the warming is stored in oceans and some is
19 shielded by particle and cloud effects.

20 --o0o--

21 DR. FISCHER: Fortunately, significant near-term
22 climate mitigation is possible through reductions in
23 non-CO2 pollutants. These pollutants, which include
24 methane, black carbon, and halocarbons such as ozone
25 depleting substances, are responsible for approximately

1 on regional impacts of black carbon as well as ways to
2 measure these impacts.

3 --o0o--

4 DR. FISCHER: Nationally and internationally,
5 climate policy thus far has been inconsistent with regard
6 to control of ozone-depleting substances, which are not
7 covered under the Kyoto Protocol but are included in
8 California's climate policy. Although the Montreal
9 Protocol controls new production of ozone-depleting
10 substances, it does not address end-of-life recovery of
11 those substances that are already in use. In California,
12 alone, the stock of ozone-depleting substances is
13 estimated to be roughly 700 million metric tons carbon
14 dioxide equivalent.

15 The scoping plan identifies several mitigation
16 strategies for these extremely high global warming
17 potential gases, including an upstream mitigation fee to
18 ensure that climate impacts of these substances are
19 reflected in product costs and to encourage reduced use as
20 well as the development of alternatives.

21 To facilitate recovery and destruction of
22 ozone-depleting substances, economic incentives need to be
23 implemented.

24 --o0o--

25 DR. FISCHER: International aviation and

1 shipping, each of which accounts for a few percent of
2 global carbon dioxide emissions, are not accounted for by
3 current climate policy. Both sectors are projected to
4 grow substantially by 2050. For both sectors,
5 international organizations have assumed authority to
6 devise climate regulatory control.

7 Imported goods are another missing piece of
8 current climate policy. In the United States, emissions
9 associated with production and transport of imported goods
10 is estimated at 13 to 30 percent of the total national
11 carbon emissions.

12 --o0o--

13 DR. FISCHER: Carbon calculators are among the
14 tools available to individuals, businesses and other
15 organizations to help produce their climate impacts. In
16 partnership with the University of California Berkeley,
17 ARB is working to make available a carbon footprint
18 calculator that, as part of the cool California resource,
19 will facilitate voluntary reductions by Californians.

20 The calculator results shown here depict the
21 average California household, whose annual emissions of 38
22 tons carbon dioxide equivalent per year are largely
23 comprised of indirect emissions such as consumption of
24 goods, food, and services that people may not immediately
25 consider when they think about climate change.

1 reduce the missing pieces of its carbon footprint.

2 --o0o--

3 DR. FISCHER: Although ARB is already taking
4 action on several issues addressed by this year's
5 Haagen-Smit Symposium, major issues remain to be
6 addressed. For example, the U.S. EPA's endangerment
7 finding does not extend to ozone-depleting substances or
8 black carbon. So ARB needs to take leadership with regard
9 to urgent action needed for these climate active
10 pollutants.

11 Although recent scientific and political
12 consensus regarding accounting frameworks for non-Kyoto
13 pollutants will take some time, in the very near term ARB
14 can incentivize methane reductions by considering a
15 20-year global warming potential which reflects the high
16 impacts that methane incurs in the first few decades after
17 it is emitted.

18 ARB can begin to address California's
19 responsibility for the carbon footprint of imported
20 consumer goods and manufacturing supply chains through its
21 efforts to promote voluntary emissions reductions.

22 Technical staff at ARB are continuing to work on
23 innovative policy to set precedence for reducing
24 greenhouse gas emissions through control of
25 ozone-depleting substances.

1 --o0o--

2 DR. FISCHER: Thank you for your attention. We'd
3 be happy to answer any questions.

4 CHAIRPERSON NICHOLS: Thank you, Dr. Fischer.

5 Are there any questions or comments from Board
6 members?

7 Yes, Dr. Sperling.

8 BOARD MEMBER SPERLING: That was an excellent
9 presentation. Having attended the conference, that is an
10 excellent summary of it.

11 One question I have is your comments about black
12 carbon. It's one of the really interesting issues because
13 it does carry over, you know, from our efforts at, you
14 know, improving health as well as climate change. And so
15 I was just wondering, is there an analysis being done to
16 see what effect some of these in-use diesel rules that
17 we're pursuing, as well as the new engine diesel rules --
18 you know, what are -- is there some effort to quantify the
19 climate benefits as well as the health benefits? Because
20 I think that will help us a lot as we move forward if it's
21 a significant number. Acknowledging that there are -- it
22 is challenging the word that you use and to measure these
23 effects.

24 RESEARCH DIVISION CHIEF CROES: Bart Croes with
25 the Research Division.

1 Dr. Sperling, yes, we're actually working with
2 NASA and Mike Walsh, who's a former EPA employee that does
3 global emission inventory. So we're coming up with
4 transportation scenarios that include the diesel retrofit
5 program, calculating the climate benefits as well as the
6 health co-benefits from these measures, both in California
7 and if they were implemented nationwide and in Europe.

8 BOARD MEMBER SPERLING: Well, we've analyzed the
9 health benefits, and they're very substantial.

10 What about the climate benefits, the greenhouse
11 gas reductions, does that look like it's a significant
12 impact?

13 RESEARCH DIVISION CHIEF CROES: Yeah, it does
14 look like it's significant. And NASA provides a global
15 climate modeling capability that we need to do that
16 estimate.

17 So, yes, we are finding pretty significant
18 climate benefits from diesel retrofit programs. On just
19 the California's program alone is on the order of 10 to 20
20 million metric tons CO2 equivalent. And I give a pretty
21 broad range because of the uncertainty in the climate
22 impacts of black carbon. And then we're also trying to
23 scale that up nationally and globally, and it does look
24 like it's fairly significant.

25 BOARD MEMBER SPERLING: And will we get any input

1 on anything we should possibly be doing differently with
2 our diesel -- various diesel rules to enhance those
3 benefits?

4 RESEARCH DIVISION CHIEF CROES: Well,
5 uncontrolled diesel's about 70 percent black carbon. And
6 the retrofits basically take all the black carbon out. So
7 it really is a very effective strategy to reduce black
8 carbon.

9 CHAIRPERSON NICHOLS: For the benefit of those
10 who may not be as steeped in all of these things as some
11 of you are, could somebody give a simple definition of
12 what black carbon is.

13 RESEARCH DIVISION CHIEF CROES: Black carbon
14 is --

15 (Laughter.)

16 CHAIRPERSON NICHOLS: Just a question.

17 RESEARCH DIVISION CHIEF CROES: It's basically
18 the black light-absorbing soot that you -- so it's a
19 visible soot from diesel sources, from coal combustion,
20 from fires, and so forth.

21 So this black soot absorbs the radiation and
22 turns it into heat very effectively, and so it's a very
23 effective warming agent.

24 CHAIRPERSON NICHOLS: And did I just hear you say
25 that 70 percent of uncontrolled diesel emissions -- or

1 diesel engines without any control on it, 70 percent of
2 what came out the tailpipe would be black carbon?

3 RESEARCH DIVISION CHIEF CROES: Seventy percent
4 of the particles that come out of the diesel engine are
5 black carbon.

6 CHAIRPERSON NICHOLS: Particles.

7 RESEARCH DIVISION CHIEF CROES: And the traps
8 effectively remove essentially all the black carbon.

9 CHAIRPERSON NICHOLS: Okay. So what happens when
10 black carbon has its warming effect on glaciers or snow
11 and the polar ice, et cetera, as it drifts around the
12 globe is these particles literally fall on these white
13 substances, the frozen ice or whatever, and causes it to
14 absorb more sun and then warm up?

15 RESEARCH DIVISION CHIEF CROES: Right. So black
16 carbon in the atmosphere heats up the atmosphere because
17 of this capability to turn the solar energy into heat.
18 And then also, like you said, when the particles fall on
19 snow or ice, they enhance the melting of that snow and
20 ice.

21 CHAIRPERSON NICHOLS: Okay. Thank you.

22 I see that some people have discovered the fact
23 that there is seating upstairs in the balcony. If there's
24 anybody who's still looking for seating, because I saw
25 there were a number of people standing in the back, it is

1 possible to participate by sitting up on the upper level.

2 Thank you for opening that area up.

3 CHAIRPERSON NICHOLS: Yes, Dr. Telles.

4 BOARD MEMBER TELLES: Is this on?

5 CHAIRPERSON NICHOLS: You have to wave your arms,
6 because I can barely see you over the partition.

7 BOARD MEMBER TELLES: I had a question of
8 clarification on the imports, the U.S. equivalence of --
9 up to being 30 percent of CO2 emissions. Is that the
10 production of CO2 emissions in the country of origin or is
11 it the use and disposing of those imports here in the
12 United States?

13 DR. FISCHER: That's the manufacturing and the
14 country of origin as well as the transportation to the
15 United States.

16 BOARD MEMBER TELLES: Okay. And you mentioned
17 that California was working with international partners to
18 do something about that. Now, what exactly could
19 California do from a legal point of view in regards to
20 that, because it's an international trade issue?

21 DR. FISCHER: Carbon Trust, which is an
22 organization in the UK, is working on a voluntary basis
23 with businesses to develop carbon footprints that include
24 the supply chain, and therefore internalize the emissions
25 associated with imported goods.

1 California's effort to offer a tool for
2 calculating carbon footprints to businesses as well as
3 individual consumers and households similarly produces a
4 result that reflects imports and other consumer goods. So
5 we offer people the information they need to make
6 voluntarily decisions.

7 CHAIRPERSON NICHOLS: There's already a pretty
8 lively offset market out there, a voluntary market without
9 any mandates behind it, which we are being asked I know as
10 a result of various bills going through the Legislature to
11 participate in in a more active way by actually developing
12 mechanisms for assuring that the offsets are real and
13 deciding how much they should be credited with. We have
14 not taken a position on any of those bills. But it's
15 clear that this is an area that's getting a lot more
16 attention internationally as well.

17 I wanted to comment on Dr. Sperling's comment
18 earlier about quantifying the climate benefits of diesel
19 control. I had the opportunity to attend a meeting this
20 summer with transportation regulators from around the
21 world through a group called the International Council for
22 Clean Transportation, which is based in the U.S. And the
23 same fellow, Michael Walsh, who was mentioned earlier, has
24 been working with them as well on a number of studies to
25 try to look at transportation as the market for personal

1 vehicles grows rapidly in China and India and other
2 developing parts of the world - Mexico, Brazil, et
3 cetera - to see sort of how this is going to affect our
4 efforts to control global climate, which up until now have
5 been mostly focused on individual vehicles and so on. And
6 I think one of the most interesting things that I learned
7 as a result of this is that probably this year when the
8 U.N. Framework Convention convenes in Copenhagen is going
9 to be the first time that there's really been much serious
10 looks at that issue. Up until now it's been much more
11 focused on electricity production, coal burning, heating
12 and cooling, so forth. And people are beginning to
13 realize the magnitude of the growth in this area and what
14 it could mean for all of our other efforts.

15 But I would say that outside of the U.S. and
16 Europe -- western Europe and maybe Japan, people are
17 really not interested in looking at transportation from a
18 climate perspective. They are worrying about effects on
19 health, and they're just really getting started in many
20 areas in setting standards to look at the effects on
21 health of increasing use of combustion engines -- internal
22 combustion engines. But as far as factoring that into
23 some sort of a global climate regime, I think we're quite
24 a long way away from, you know, having any kind of
25 international consensus about doing that, despite your

1 best efforts, I might say. I wished I had had copies of
2 your book to hand to all of these people while I was
3 there. So I think there's a market out there that we need
4 to get to.

5 Anyway, were there any public speakers who signed
6 up for this item?

7 BOARD CLERK VEJAR: No, we do not.

8 CHAIRPERSON NICHOLS: We do not.

9 Okay. Then I think we'll just move on to the
10 next item on our agenda.

11 EXECUTIVE OFFICER GOLDSTENE: Just one thing.
12 I'd like to thank the staff for the work they did on the
13 symposium this year. They pulled symposium off under very
14 difficult conditions. And I want to just thank them again
15 publicly for the effort Bart and staff did.

16 CHAIRPERSON NICHOLS: It was an excellent
17 symposium. I attended a fair amount of it myself.

18 Thank you.

19 Okay. So we have another brief science update
20 this morning also. And this one relates to a study that's
21 going to be getting underway later this year, a major
22 field study that's going to start actually next year, a
23 field study that we're collaborating on with the National
24 Oceanic and Atmospheric Administration. And so I thought
25 Board members would appreciate hearing about what we're

1 going to be launching here.

2 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
3 Nichols.

4 Today we'd like to make the Board aware of CalNex
5 2010 and other field studies which will take place in
6 California next year.

7 ARB's tradition of supporting air pollution
8 research goes back to the beginning, you know from the
9 last four decades.

10 Next year ARB will benefit from and contribute to
11 a \$15 million effort by NOAA focused on air quality and
12 climate science issues. The aircraft and ships that NOAA
13 will deploy are able to make measurements over the entire
14 state. Combined with surface monitoring stations funded
15 by ARB and the South Coast Air Quality Management
16 District, we're going to get an unprecedented amount of
17 data collected. NOAA will then work with us to review the
18 results and produce policy-relevant conclusions we hope in
19 a very timely manner so we can make decisions about how we
20 want to move forward in certain areas.

21 Dr. Eileen McCauley of the Atmospheric Processes
22 Research Section of the Research Division and Dr. David
23 Parrish from NOAA will make the presentation this morning.

24 CHAIRPERSON NICHOLS: Thank you.

25 (Thereupon an overhead presentation was

1 Presented as follows.)

2 DR. McCAULEY: Thank you, Mr. Goldstene.

3 Dr. David Parrish is one of NOAA's leads for
4 CalNex, and he is here to discuss with the Board NOAA's
5 plans for CalNex 2010. Before his presentation, I will
6 provide some background about air quality field studies in
7 California, and CalNex in particular, and their role in
8 the regulatory process. I will also very briefly mention
9 two other major field studies which will take place in
10 California in 2010.

11 --o0o--

12 DR. McCAULEY: California's been the site of
13 dozens of air quality field studies, with over 2,000
14 papers published on work in California. By improving our
15 understanding of the sources and processes which form
16 pollution in the State, these field studies have played an
17 important role in shaping the Board's decision about
18 controlled strategies. However the complexity of the
19 atmosphere, changes in the composition, and growth in our
20 ability to more accurately model processes in the
21 atmosphere mean that we continue to need evermore
22 detailed, accurate scientific information.

23 Recognizing the need for a better understanding
24 of many issues which affect air quality and climate, ARB
25 was immediately interested when the National Oceanic and

1 Atmospheric Administration suggested collaborating on a
2 major field study focused on both air quality and climate
3 science.

4 CalNex 2010 will focus on basic science questions
5 which have implications for issues of concern to the
6 Board, such as ozone formation under very different
7 conditions in the coastal plain and the inland valleys,
8 and formation of carbonaceous particulate matter and its
9 effects on the radiative budget of the atmosphere.

10 --o0o--

11 DR. McCAULEY: Air quality and climate are a
12 phenomena of the atmosphere, and it's not surprising that
13 some species or processes traditionally of concern to one
14 discipline have an impact on both. For example,
15 particulate matter or aerosols not only impact human
16 health but can either warm or cool the atmosphere,
17 depending on the composition of the particulate matter.
18 Policymakers would like the most complete understanding of
19 climate air quality interactions as they make decisions
20 that affect both.

21 CalNex will collect sophisticated measurements on
22 a spatial scale not available to us previously. NOAA's
23 scientists can make measurements over the entire state and
24 fall out over the Pacific with a chemical completeness and
25 temporal resolution that has not been available to us

1 available.

2 --o0o--

3 DR. McCAULEY: We are planning a large
4 ground-based effort also which will include two so-called
5 Supersites, one in Los Angeles and one in the southern San
6 Joaquin Valley. The L.A. Supersite will focus on organic
7 particulate matter and nighttime chemistry. The South
8 Coast Air Quality Management District is considering
9 funding work by Professors Stutz and Jimenez, and NOAA
10 will support Dr. de Gouw.

11 The San Joaquin Supersite, which will be located
12 in Arvin, will have a comprehensive suite of chemical
13 measurements which will significantly improve our
14 understanding of the formation of ozone and particulate
15 matter in the San Joaquin Valley. Professors Ronald Cohen
16 and Allen Goldstein are the principal investigators, and
17 four other research groups will join them at this site.

18 As the Board seeks to decrease Californian's
19 exposure to particulate matter, the issue of sources of
20 particulate sulfate in southern California is one we would
21 like to investigate. By deploying continuous sulfate
22 monitors alongside South Coast's new trace SO2 monitors,
23 we will have a better understanding of both marine and
24 on-land emissions of sulfur and of the chemistry and
25 transport of SO2 and sulfate.

1 agents - carbon dioxide, methane, nitrous oxide, and
2 halocarbons.

3 The category on the right play two roles: Air
4 quality and climate agents. Soot is one that Susan
5 focused on. And my bar is a little smaller than her bar,
6 which simply reflects some of the scientific uncertainty
7 that we're hoping to investigate. Ozone is an air quality
8 concern certainly but also a climate forcing agent. And
9 those two are warming agents.

10 There's also particulate matter, or aerosols as
11 they're labeled here, that have a very strong cooling
12 component.

13 And it's the balance between the warming and
14 cooling that gives us then our total climate change
15 forcing.

16 So in 2010, this will be our first steps at
17 really trying to integrate carefully these two issues,
18 climate and air quality. And we'll look toward the
19 benefits of dealing with these specifically together and
20 thinking about them together.

21 So they're clearly highly interrelated. We've
22 got these agents that both are air quality and climate.
23 The major air pollutants - aerosols, soot, ozone - are all
24 significant climate change-forcing agents. And these
25 common agents, as Susan mentioned, are short-lived. So

1 DR. PARRISH: The next slide shows one example of
2 that. And I'm not sure how well you can see that. The
3 upper map shows the point sources of sulfur from the
4 inventory in the L.A. basin. And the bottom panel shows a
5 flight track of the NOAA P3, the aircraft that Eileen
6 showed, that's basically an airborne platform for making
7 rapid measurements of all the species of interest. And we
8 did do one flight in 2002 over the L.A. basin. And that
9 flight track is traced out and color coded according to
10 the SO2 concentration.

11 So we can fly downwind from each of these point
12 sources and measure the emissions that are coming out from
13 each of the point sources. And we can characterize the
14 total SO2 concentration throughout the L.A. basin. And we
15 can repeat that for many, many species.

16 The research vessel, it will be well suited for
17 detailed sampling of ship emissions either in the ports of
18 Long Beach, Los Angeles, and perhaps the Bay Area,
19 depending on where the ship sets out from. And the P3 can
20 fly throughout the state.

21 And we'll be in a place now we can look at
22 changes in emissions. We were here, at least limited, in
23 2002. The CARB funded the NASA aircraft to make
24 measurements in 2008. And then we'll be back in 2010. So
25 we can begin to get a time tracking of the emissions

1 changes.

2 --o0o--

3 DR. PARRISH: Eileen mentioned chemical
4 transformation. We'll be looking at the formation
5 processes and the removal processes for ozone and
6 aerosols. We'll be looking at daytime and nighttime
7 processes. We're beginning to learn that nighttime
8 processes have significant effects on both aerosols and
9 ozone.

10 And we'll look at gas phase species and
11 heterogeneous species, reactions taking place on the
12 surfaces of aerosols.

13 We'll look at transport and mixing. And so
14 intercontinental, inter and intrastate transport,
15 transport from the lower atmosphere, the boundary layer
16 where the emissions are, to the pre-troposphere. And
17 ideally we'll come up with improved understanding of how
18 we are affected and how we affect our neighbors by our own
19 emissions.

20 --o0o--

21 DR. PARRISH: And the next slide shows one
22 example of that.

23 This is the NOAA Twin Otter airborne LIDAR data
24 from the study in 2006 in Houston. So the big
25 metropolitan area kind of in the center there is the

1 the P3 aircraft to focus more clearly on these air quality
2 climate interactions and more clearly characterize the
3 emissions particularly on greenhouse gases and aerosols,
4 and that emerging importance of black carbon or soot will
5 be a major effort.

6 So thank you.

7 CHAIRPERSON NICHOLS: Thank you very much.

8 Board members have any questions at this point
9 about the studies?

10 Yes.

11 BOARD MEMBER SPERLING: One part of your talk got
12 my attention.

13 You know, California's a very unique place in
14 many ways, we've all discovered in our own ways. One of
15 the ways is we have all of these regional climates, you
16 know, very -- micro-climates, and there's a lot of
17 sensitivity to it, you know, in terms of it affects our
18 water supply, it affects our wine industry, skiing, many
19 things important to many of us. Some more than others.
20 But, you know, you talk about regional climate models.

21 So one of the huge issues for California as it
22 moves forward, you know, ARB to some extent, but the whole
23 state, is how to deal with the climate change and these
24 differentiated effects. And so there's starting to be
25 attention to adaptation policies and, you know, it's

1 infrastructure issues as well, you know where to build the
2 airports and near the water and so on.

3 Are you going -- how big a part of this or how
4 sophisticated or how fine -- how much fine resolution will
5 there be in this work that can be useful to us in that way
6 in terms of talking about adaptation?

7 DR. PARRISH: I should emphasize the P3 aircraft
8 gives very fine resolution information. So it makes
9 measurements of many, many species on a one-second time
10 scale. So that translates into a hundred meter
11 resolution. And so during a six- to eight-hour flight,
12 there's a lot of seconds in that time period. And so we
13 have a measurement, you know, nearly every second of all
14 these species throughout that time period. So we'll have
15 a tremendous amount of very fine scale information.

16 The trick is to effectively interpret that. And
17 so that's the advantage of coming to a location with
18 the local expertise that's here, both at CARB, the air
19 districts, the universities, and leveraging this data set
20 with the folks that can -- that we can work with to get
21 the biggest science payback from the efforts we put in.

22 BOARD MEMBER SPERLING: So is this part of the
23 program to integrate in with -- you know, NOAA has these
24 big climate models, and I know there's efforts at
25 developing these more regional -- you know, looking at

1 regional effects and regional changes. Is that part of
2 this program to develop, you know, these micro-climate,
3 regional climate models -- sub-models?

4 DR. PARRISH: We don't -- well, there's -- in
5 terms of a regional climate model I'm not aware of any
6 research in NOAA that's directly addressing the
7 micro-climates of California. But we would certainly make
8 this data available to anyone that's interested in
9 evaluating it and using it.

10 We are working with the GFDL that do run the
11 global climate and the global climate models and the more
12 national climate models. And they're interested in doing
13 a finer scale model over the California region. But
14 whether we can really call that the microscale climates or
15 not, I'm not sure.

16 CHAIRPERSON NICHOLS: Dr. Balmes.

17 BOARD MEMBER BALMES: I think --

18 CHAIRPERSON NICHOLS: Oh, sorry.

19 Bart.

20 RESEARCH DIVISION CHIEF CROES: Dr. Sperling,
21 just a follow-up. There are efforts to do regional
22 climate modeling funded by the California Energy
23 Commission with University of California at San Diego.
24 And so they're a pretty big participant in this CALWATER
25 activity, for instance, and looking at some of these

1 issues about precipitation and snowfall in local -- you
2 know, in the mountains as well as local areas around the
3 state. So there are modeling efforts that address your
4 issue but they're just not part of NOAA. But they are
5 integrated with this and other studies that are going on
6 in 2010.

7 BOARD MEMBER BALMES: So my question is actually
8 for Eileen.

9 In your slide presentation when you talked about
10 California's contributions, I saw that there was a San
11 Joaquin Valley Supersite.

12 DR. McCAULEY: Yes.

13 BOARD MEMBER BALMES: So where is that located?

14 DR. McCAULEY: In Arvin.

15 BOARD MEMBER BALMES: In Arvin.

16 DR. McCAULEY: Which is near Bakersfield.

17 BOARD MEMBER BALMES: Okay. Thank you.

18 CHAIRPERSON NICHOLS: Dr. Telles.

19 BOARD MEMBER TELLES: Will you be measuring
20 methane? Especially in the San Joaquin Valley, is there
21 any way to determine -- one of the unknown things is how
22 much methane a cow actually produces in the field. And is
23 there any way you can extrapolate how much methane is
24 coming out of the dairies in the San Joaquin Valley?

25 DR. PARRISH: The short answer is yes. We'll

1 have one-second resolution methane measurements made from
2 the aircraft. And it flies low enough that we'll be able
3 to clearly discern, not individual cows, but at least
4 individual dairies and feedlots. And that will be a major
5 focus. The analysis from that 2002 flight, the -- if you
6 just look at the whole state budget for greenhouse gases,
7 the ratio of methane to CO2 I think was like 6 percent in
8 units of global warming potential.

9 And when we look at just the L.A. basin, we were
10 getting a ratio that was close to that 6 percent. But we
11 don't think L.A. really represents the whole State of
12 California in terms of representative methane emissions.
13 So we'll try and map out much better, you know, contours
14 of methane emissions across California.

15 DR. McCAULEY: In addition to the aircraft
16 measurements, there will be ground-based measurements. We
17 are deploying a number of -- setting up a number of sites
18 in the San Joaquin Valley which will look at methane,
19 carbon monoxide, and carbon dioxide. And there are two
20 mobile platforms. Basically electric vehicles have been
21 equipped with instruments, and they can drive around. If
22 we see something interesting in some of the other
23 monitoring, we can use the mobile instruments to look at
24 it in more detail.

25 CHAIRPERSON NICHOLS: So it sounds like we're

1 going to be acquiring an awful lot of information. And
2 we're not quite sure at this point even how we're going to
3 be able to use all of it. But clearly it's going to add
4 to the resources that are available to us for a number of
5 different purposes, and it's very useful for us to know
6 that this is going to be coming our way and to be thinking
7 about how we might be asking more questions of it that are
8 relevant from a policy perspective.

9 Lynn.

10 DEPUTY EXECUTIVE OFFICER TERRY: I just wanted to
11 mention how critical this work will be for the new SIPs
12 for the ozone standard planning process that will take
13 place shortly after this data is collected. It's
14 really -- the last field study we did in the San Joaquin
15 Valley was in the year 2000. So this is very critical.
16 And the Supersite in the southern valley was selected very
17 purposefully to collect that data.

18 CHAIRPERSON NICHOLS: I suspected that, yeah.
19 Arvin is a name that has a lot of resonance here at the
20 ARB.

21 All right. Without further ado then, thank you
22 very much. We appreciate your coming and getting us this
23 update, and it's exciting. We'll look forward to getting
24 some updates when you have more to report.

25 The next item on our agenda this morning is a

1 public hearing on proposed amendments to the regulation
2 for in-use off-road diesel fueled fleets.

3 The regulation, which was approved by the Board
4 on July 26 of 2007 - an important date in my personal
5 history since it was my first Board meeting when I came
6 back as Chairman - will significantly reduce the public's
7 exposure to diesel particulate matter and oxides of
8 nitrogen from the nearly 180,000 off-road diesel vehicles
9 operating in California.

10 When the regulation is fully implemented, we
11 expect it to prevent some 4,000 premature deaths and to
12 provide the State an economic benefit of 18 to \$26 billion
13 in avoided health costs and costs of premature deaths.

14 We last heard from our staff regarding this
15 regulation in January when the staff gave us a technology
16 and implementation update. At that time, we extended the
17 deadline for fleets to obtain the double credit that we
18 had written into the rule for those who were able to do
19 early retrofits.

20 Then as part of the February 2009 budget
21 agreement, the Legislature enacted Assembly Bill 8 2X,
22 which is why the staff is back before us today. This bill
23 was intended to provide economic relief and to preserve
24 jobs for fleets that are heavily impacted by the current
25 recession, and particularly for those that are in the

1 construction industry.

2 So we need to both acknowledge the fact that this
3 legislation passed and our role in helping to implement
4 it, and then to hear from the public about the proposal
5 that the staff has made for how to actually implement that
6 legislation.

7 Mr. Goldstene, would you please introduce this
8 item.

9 EXECUTIVE OFFICER GOLDSTENE: Thank your Chairman
10 Nichols.

11 In Assembly Bill 8 2X, the Legislature directed
12 ARB to amend the regulation to provide additional credit
13 for reduced activity and vehicle retirement, and to revise
14 the performance requirement schedule to allow fleets more
15 flexibility in 2010 and 2011.

16 The changes directed by AB 8 2X will allow fleets
17 to take fewer actions to reduce emissions and therefore
18 staff expects they will result in a loss in emission
19 benefits. Hence, staff is also proposing a number of
20 measures to spur voluntarily early retrofits and repowers
21 of affected vehicles, with the expectation that these
22 measures will make up some of the emission benefits lost
23 due to AB 8 2X.

24 Additionally, over the past six months staff has
25 been working closely with affected fleets to implement the

1 regulation. Through this effort, staff has identified
2 several areas in the regulation where minor changes are
3 needed to provide additional flexibility and clarity. As
4 such, staff is proposing several additional minor
5 clarifications and modifications.

6 I'll now ask Elizabeth White from our Heavy-Duty
7 Diesel In-Use Strategies Branch to give the staff
8 presentation.

9 Beth.

10 (Thereupon an overhead presentation was
11 Presented as follows.)

12 MS. WHITE: Thank you.

13 Good morning, Madam Chairman and members of the
14 Board.

15 My presentation today details the proposed
16 amendments to the regulation for the in-use off-road
17 diesel-fueled fleets.

18 The proposed amendments will implement elements
19 of February's budget bill, codified in Assembly Bill 8 2X,
20 that affected this program and also include new incentives
21 to spur early actions by fleets to reduce emissions, and
22 several additional minor modifications and clarifications
23 to the regulation.

24 --o0o--

25 MS. WHITE: Here's an outline of today's

1 MS. WHITE: The legislation directed ARB to allow
2 fleets complying via BACT provisions to take fewer actions
3 for the 2011 and 2012 compliance dates, and to require
4 fleets to make up for the difference by the 2013
5 compliance date.

6 --o0o--

7 MS. WHITE: The current NOx BACT requirements -
8 shown in blue - require fleets to turn over 8 percent of
9 their horsepower each year.

10 To implement the legislation, staff is proposing
11 to change the turnover requirements to those shown in red.
12 In 2011 and 2012 fleets would only need to turn over 4.8
13 percent of their horsepower. But in 2013, fleets that
14 take advantage of the reduced 2011 and 2012 requirements
15 would need to turn over 14.4 percent of their horsepower.
16 The regulation's existing in carryover provisions will
17 remain in place, such that a fleet that does more than is
18 required one year can bank the extra credit.

19 --o0o--

20 MS. WHITE: These bar charts show what the
21 schedule changes mean for the regulation's retrofit
22 requirements.

23 The current PM BACT requirements - shown in
24 blue - consist of installing retrofits on 20 percent of a
25 fleet's horsepower each year. To implement the

1 legislation. Staff balanced the need to provide relief as
2 directed in the legislation with the need to protect air
3 quality.

4 --o0o--

5 MS. WHITE: To receive the credit, fleets will
6 need to submit some records to demonstrate that the
7 reduction in activity occurred. After receiving feedback
8 during the two workshops held to discuss the legislation
9 and from industry representatives, staff concluded that
10 although some fleets have complete records, such as
11 vehicle hour meter or operator logs, many other fleets who
12 have experienced a reduction in activity would have more
13 limited records. For example, they might lack hour logs,
14 but have records of revenue or employment suggesting a
15 drop in activity but not corresponding directly to
16 operating hours or emissions.

17 Staff crafted its proposal such that it allows
18 fleets with such incomplete records to get some credit, up
19 to 20 percent. To receive credit greater than 20 percent,
20 a fleet would be required to submit hour-meter or operator
21 logs for each vehicle. Staff balanced the assurance of
22 credit with the flexibility of allowed records.

23 Staff's proposal ensures that credit is not
24 unfairly awarded to fleets that have not actually reduced
25 activity, but at the same time allows fleets which cannot

1 substantiate specific vehicle activity reductions to
2 receive some credit.

3 --o0o--

4 MS. WHITE: Based on comments received at the
5 workshops, some fleets have both retired vehicles and
6 reduced the operating hours of their remaining vehicles.
7 Under the proposal, fleets that have retired vehicles and
8 also have reduced activity from the remaining vehicles in
9 the fleet could claim credit for both. However, to
10 prevent double counting of the same action, a fleet could
11 not receive credit both for retiring and reducing activity
12 for the same vehicle.

13 For fleets that submit usage records for each
14 remaining vehicle, staff proposes to allow retirement
15 credit for vehicles retired, and then also reduced
16 activity credit for activity reductions from the remaining
17 vehicles.

18 For fleets without vehicle-specific records, any
19 retirement credit for these fleets must be subtracted from
20 reduced activity credit to prevent double counting.

21 --o0o--

22 MS. WHITE: The legislation will delay the
23 requirements of the regulation for many fleets, especially
24 those heavily impacted by the current recession. Hence,
25 there will be a slower retirement of high emitting

1 there will be a commensurate loss in the health benefits
2 of the regulation, with this loss in health benefits not
3 being made up in future years.

4 --o0o--

5 MS. WHITE: Staff expects the second part of the
6 legislation, the new retirement and reduced activity
7 credit, will also result in a loss of emission benefits
8 because use of credits will allow fleets to take fewer
9 actions to clean up their vehicles. However, staff
10 recognizes that the recession has also impacted the
11 emissions from many affected fleets. Many fleets have
12 retired vehicles and reduce their vehicle activity and
13 thereby reduce their emissions below current estimates.

14 Until staff receives more data from fleets on the
15 level of activity reduction and fleet size, the extent of
16 changes in turnover practices, the type and quality of
17 records that fleets have maintained, and the timing and
18 extent of economic recovery, the overall effect on
19 emissions versus what was estimated when the regulation
20 was adopted cannot be accurately quantified at this time.

21 --o0o--

22 MS. WHITE: In January, the Board requested that
23 staff return this fall with an update on where emissions
24 are versus where we estimated they would be when the
25 regulation was adopted. Due to the legislation, staff

1 will receive data on large fleet retirement and activity
2 reductions next spring. Because the proposed amendments
3 provide fleets hardest hit by the recession a delay in
4 complying with the regulation, there's now additional time
5 to complete staff's emissions evaluation.

6 As such, staff will be able to analyze the two
7 competing effects of the recession and the proposed
8 amendments and develop estimates regarding where emissions
9 are. We therefore propose that the Board allow us to
10 postpone our update until the middle of 2010.

11 --o0o--

12 MS. WHITE: To mitigate the potential loss in
13 emission benefits from the legislation, staff is proposing
14 four amendments to spur early actions by fleets to reduce
15 emissions. These amendments are intended to encourage
16 fleets to install retrofits and repower vehicles with
17 cleaner engines earlier than they otherwise would.

18 --o0o--

19 MS. WHITE: Amendments to provide incentives for
20 early retrofits include:

21 Allowing fleets to claim double credit for
22 retrofits that reduce NOx that are installed by March 1,
23 2011.

24 Also providing an additional 20 years for medium
25 and small fleets to claim double credit for PM retrofits.

1 And, lastly, allowing fleets to claim an
2 exemption for up to 15 percent of their total horsepower
3 from future turnover if they install a retrofit prior to
4 March 1, 2011. To prevent long-term NOx emission
5 disbenefits, it is necessary to limit this new exemption
6 to 15 percent of a fleet's horsepower.

7 --o0o--

8 MS. WHITE: Staff also proposes to add a
9 provision that allow fleets to accumulate NOx turnover
10 credit for early repowers that are installed.

11 --o0o--

12 MS. WHITE: Staff expects the proposed incentive
13 provisions will offset some of the emission impact of the
14 legislation. However, the overall benefit of these
15 proposed amendments will depend entirely on how successful
16 they are in spurring fleets to install additional
17 retrofits and repowers.

18 The table on this slide provides an estimate of
19 the emission benefits from the proposed incentives if they
20 spur 800 additional retrofits and 500 additional repowers
21 with cleaner engines.

22 Even with this level of early action, it still
23 would only partially offset the loss in emission benefits
24 expected from the 2011 and 2012 BACT schedule changes.

25 --o0o--

1 MS. WHITE: Since January 2009, as staff has been
2 implementing the regulation and receiving feedback from
3 affected fleets and other stakeholders, staff has
4 determined that several other minor provisions of the
5 regulation should be clarified or modified.

6 --o0o--

7 MS. WHITE: These clarifications and
8 modifications are shown on this slide.

9 These changes concern installer delays, how
10 community college training programs are treated,
11 clarification of the retrofit safety exemption, public
12 agency fire prevention activities, and reporting of
13 vehicle sales to ARB.

14 Staff does not expect any of these clarifications
15 and modifications will have a quantifiable impact on
16 emissions.

17 --o0o--

18 MS. WHITE: Now that I've described the proposed
19 amendments and individual emission impacts of each change,
20 I will now summarize the overall effect on emissions from
21 the legislation and incentive provisions.

22 --o0o--

23 MS. WHITE: In summary, the first part of the
24 legislation, the proposed BACT schedule changes, will
25 cause a loss in health benefits in the early years of

1 compliance. We expect the second part of the legislation,
2 the new proposed reduced activity and retirement credit
3 provisions, to result a loss in emission benefits. But we
4 cannot accurately quantify this loss at this time, because
5 it depends on several variables for which the data is
6 currently unavailable.

7 The emission benefits of the proposed incentive
8 provisions will depend on their appeal to fleets. Staff
9 expects these new provisions will only partially offset
10 the loss and emission benefits expected from the
11 legislation.

12 Overall, a net loss in emission benefits is
13 expected from staff's proposal.

14 --o0o--

15 MS. WHITE: In conclusion, staff recommends that
16 the Board approve the proposed amendments to the
17 regulation. Additionally, staff proposes to return to the
18 Board mid-next year to report on the impacts of the
19 economy and the proposed amendments.

20 This concludes my presentation. Thank you.

21 CHAIRPERSON NICHOLS: Thank you.

22 We have opportunity for Board members to ask any
23 questions if they want to before we hear from the public.

24 Yes, Mr. Roberts.

25 BOARD MEMBER ROBERTS: I get concerned when I

1 hear about losses and things like this, because the
2 language sometimes is different.

3 What role does the economy take in making those
4 statements? What are the assumptions made? And if you go
5 back to your chart -- hang on -- the one that shows the
6 two curves with the yellow coloring. And I'm having
7 trouble finding it here right now.

8 Slide 20.

9 MS. WHITE: Slide 20?

10 BOARD MEMBER ROBERTS: Yeah. And let me
11 further -- I mean if the economy is such, it's a little
12 bit different. But if it was such that we stopped every
13 single piece of equipment, would we still have a loss of
14 emission benefits by -- I'm trying to understand the
15 language that you're using, because it seems a bit foreign
16 to me.

17 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

18 WHITE: Well, there's a couple things that are going on.
19 This particular slide -- Oh, I'm sorry.

20 This is Erik White with the Mobile Source Control
21 Division.

22 On this particular slide what you're seeing is
23 the reduced amount of actions that fleets would have to
24 take in 2011 or 2012 by essentially establishing a
25 triennial compliance period. So they'll do a little bit

1 in 2011, a little bit in 2012, and then they'll make up
2 the difference in 2013. So they get to the same point.

3 BOARD MEMBER ROBERTS: I understand that.

4 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
5 WHITE: Okay.

6 BOARD MEMBER ROBERTS: Help me to understand
7 where that blue line -- the assumptions that are made in
8 developing the blue line.

9 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
10 WHITE: Well, the blue line are the emission estimates
11 that we developed in conjunction with developing the
12 regulation. Those are based on a 2005 emission estimate
13 and baseline and grown into future years. So the blue
14 line is the line that we are relooking at in regards to
15 what is the effect of the economy in terms of vehicle
16 retirements, yes.

17 BOARD MEMBER ROBERTS: That's the point I'm
18 getting at. I mean if the actual blue line in reality is
19 lower than that red line, then there's not a loss then, is
20 there?

21 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
22 WHITE: Well, there still will be, because without these
23 changes, even with the reduction, fleets would still have
24 to take actions in 2011 and 2012. They would still have
25 to turn over a set amount of their horsepower or meet the

1 fleet average.

2 So what we've done is -- the blue line would come
3 down and the red line would also come down. But you would
4 still -- they would still be taking actions instead of
5 having credits, which will satisfy that obligation.

6 BOARD MEMBER ROBERTS: Okay. So what you're
7 saying, there'd be a lesser tonnage as compared to having
8 the rule versus not having the rule so long as there's
9 even one piece of equipment that's still running?

10 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

11 WHITE: Yes.

12 BOARD MEMBER ROBERTS: And there's some
13 measurable impact. But this is based on a -- at least the
14 numbers you're showing us in what we're losing here may
15 not -- in terms of total tons and the effect it may --
16 that's a theoretical number based on a theoretical
17 economy?

18 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

19 WHITE: Correct. And one reason why we're not citing
20 specific numbers is we are continuing to look at that.
21 We're working with the Associated General Contractors as
22 well to try to get a handle on what is the impact of the
23 economy on emissions. And then with the data that we
24 would come in as regards to these proposed amendments, we
25 would have a much clearer picture of how fleets are

1 responding to the economy in terms of vehicle retirements
2 and activity so that we can start to put some -- pin some
3 numbers to those.

4 BOARD MEMBER ROBERTS: Okay. But in terms of us
5 looking at the amount of yellow and trying to, you know,
6 at one time in calculus I probably could have figured out
7 the area of that and given you a total tonnage.

8 (Laughter.)

9 BOARD MEMBER ROBERTS: But that really is based
10 on some assumptions that you're reconsidering now in the
11 light of the way the world is actually spinning.

12 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
13 WHITE: Correct.

14 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: I think
15 what we can say is that the absolute value of the tons or
16 the health impact that's that shaded area will change by
17 the amount of activity decrease that there is. So that it
18 would -- if it was cut in half, then you'd probably have
19 half the loss of benefit or something along those lines.
20 But it will not go to zero unless there was zero activity.
21 So it's more like a percent -- the percentage is constant,
22 but the absolute value won't change depending on the
23 assumption or the actual activity that's going on.

24 But on this provision, there is always a loss of
25 benefit, because -- for these two years, because you're

1 just -- whatever actions are required, you're deferring a
2 part of them until the third year.

3 CHAIRPERSON NICHOLS: Right. But again this is
4 something that the decision has been made that this needs
5 to be done and, you know, we're implementing.

6 BOARD MEMBER ROBERTS: Yeah, I'm not questioning
7 that. I'm really trying to understand the projected
8 impacts here. And I think that they're probably a lot
9 less than we thought at one time.

10 CHAIRPERSON NICHOLS: I hope so, but I also fear
11 so, because obviously we don't want to bet against
12 recovery if we can possibly help it. We need to monitor
13 the situation, but we don't want to base our plans on, in
14 effect, hoping that there will be less economic activity.
15 In fact, the opposite. We want thee to be more.

16 All right. Dr. Telles, yes.

17 You do need a flag to wave here.

18 BOARD MEMBER TELLES: I know. I'm sorry.

19 I have a question kind of on the same line.

20 What is the total NOx inventory for this segment
21 right now?

22 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
23 WHITE: Yeah, we'll pull that --

24 BOARD MEMBER TELLES: Well, on page 37 you say
25 387 tons of NOx per day. I mean if that's the inventory

1 and if -- and the reason why I'm asking this is I would
2 like to see one more line on this, kind of like what
3 Supervisor Roberts is getting to, as what's actually
4 happening out there. If there's a 30 percent reduction on
5 the activity of this industry, that takes that inventory
6 down to about a hundred tons of NOx. And that would be a
7 line that's below -- I mean it's really significant.

8 And to say that there's no health benefits in the
9 first few years, I mean there's health benefits going on
10 right now because of the lack of activity in this
11 industry. And that the emissions reductions are much
12 huger than what's actually being displayed on these
13 graphs -- emission reductions from inactivity of the
14 industry.

15 MOBILE SOURCE CONTROL DIVISION CHIEF CROSS:

16 Yeah. This is Bob Cross.

17 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes.

18 But I think what happens is that the line will go down;
19 meaning that if you pick 35 tons off there of benefit, it
20 will --

21 BOARD MEMBER TELLES: A hundred tons, a hundred
22 tons. Thirty percent of --

23 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: No.
24 There will still be an incremental effect. If there's
25 only a hundred tons -- if it was 30 percent reduction,

1 then, say, it would be 200 tons. But there would -- it
2 would still be that much emissions. Certain activities
3 would be going on under the current regulation; and fewer
4 activities in '11 and '12 would be going on under the
5 revised program. And so there's always going to be an
6 incremental loss. It's just the absolute value. The
7 width of that shaded area will shrink as the activity goes
8 down.

9 But it can't go to zero. It can't -- the blue
10 line doesn't go below the red line.

11 BOARD MEMBER BERG: But isn't the incremental
12 loss due to the fact that the equipment that is not
13 running right now because of the economy, when the economy
14 does pick up, it will come back in the fleet as it was
15 before and not with a retrofit or with the engine -- with
16 the NOx improvement? So isn't that really where the
17 incremental loss is?

18 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Well,
19 in this one piece, the incremental loss just comes from
20 delayed actions that would have been required under the
21 rule where every year you'd have to do a certain amount of
22 activity. And under this rule it allows you to reduce
23 your house payment and make a balloon payment at the end
24 of three years. That's basically what it does.

25 So you catch up in the end. So in 2013, air

1 looks the same regardless of what activity is, whether
2 this bill had passed or not. But in the two previous
3 years the air will be somewhat dirtier. And we can't tell
4 you -- till we have a better understanding of the
5 activity, we can't tell you how much is lost, but it will
6 be a loss. And it may be the width of that line or it may
7 be half the width of that shaded area, depending on the
8 loss of activity.

9 And then on the other provisions we have less
10 ability to quantify at the moment. But on this one you
11 can -- you know, it's clear that there will be a loss.
12 That's all we're trying to say.

13 CHAIRPERSON NICHOLS: All right. I'd like to
14 turn to the public testimony since we have 15 witnesses
15 who have signed up to speak to us. And I'm sure they'll
16 have comments on this issue that we've just been
17 discussing as well.

18 So I don't know if you've made the witness list
19 available. Is it posted anywhere so people can --

20 BOARD CLERK VEJAR: It is out front.

21 CHAIRPERSON NICHOLS: Okay. So you can keep
22 track of where you are in the queue then if you're signed
23 up. And we would really appreciate it if people would be
24 ready to come forward when their name is called.

25 So I will call the first three witnesses: Tim

1 Pohle, followed by Joseph Kubsh, and Henry Hogo.

2 Good morning.

3 MR. POHLE: Hi there. I'm Tim Pohle from the Air
4 Transport Association. We represent the major carriers in
5 the country.

6 And we have a long history of working with our --
7 I just want to emphasize from the start that we've always
8 supported the emissions targets. We're just seeking the
9 right path to getting there. We still have some
10 fundamental concerns about this rule. But we generally
11 support the changes that are considered -- under
12 consideration today, particularly with respect to FAA's
13 role and making sure that FAA is in the mix in terms of
14 understanding what can be done safely on the airfield.

15 But I really want to focus on the future today.
16 With the passage of this rule, we now have a comprehensive
17 suite of rules that are affecting our fleet out -- in
18 California. Have the off-road diesel rules, the large
19 spark ignition rule, the portable engine rule. Even the
20 off-road diesel rule there are some pieces of equipment
21 that we operate on the airfield that are impacted.

22 So, now we've got a comprehensive suite of rules
23 that are requiring a tremendous amount of effort, a
24 tremendous amount of expense. And as we look forward into
25 the future, we're seeing more and more folks talk about

1 climate change, an issue that's very important to us. We
2 just want to make sure that you all are cognizant of what
3 you've required of us thus far and make sure that all the
4 effort that we're undertaking isn't negated by any future
5 regs that might be aimed at a different category of
6 emissions.

7 And I just want to say that I'm not out here only
8 to speak on this rule. I'm out here to speak -- working
9 with airports looking at greenhouse gas emissions. And
10 we're working with airports to try to figure that out.
11 And I have to say, some of the airports are not aware of
12 what's going on. So I welcome the comments about trying
13 to quantify the GHG reductions that are going to result
14 from all these rules and all the efforts that we're
15 undertaking.

16 So we look forward to that.

17 I think too that looking to the future, the thing
18 that's in our -- right now so important is the economy and
19 the economic situation that we find ourselves in. I think
20 that it's important. I just want to make clear we have
21 always supported the emission reduction targets. We just
22 want to get there in the right -- in a good path, good,
23 efficient path that makes sense.

24 I just want to -- I'm happy that you folks zeroed
25 right in on this issue of what isn't a benefit -- what is

1 a benefit loss.

2 I think the issue really is one -- there will be
3 an emissions benefit loss under any scenario when you
4 implement this.

5 The question though is -- you know, these lines
6 are shifting down, right? So even with the relief that is
7 provided, we're still I think going to be below where we
8 otherwise would have been under the projections that were
9 made earlier.

10 So that's really the key issue. And I hope you
11 all focus on that. And we need to do this in October, not
12 mid-2010. We need to do it in October, as was scheduled.
13 And I'm really in support of that.

14 So thank you very much.

15 CHAIRPERSON NICHOLS: Mr. Pohle, thank you for
16 that.

17 Okay. Mr. Kubsh for MECA.

18 MR. KUBSH: Good afternoon, Chairman Nichols,
19 members of the Board. My name's Joe Kubsh. I'm the
20 Executive Director of the Manufacturers Emission Control
21 Association. And I have a very simple message here for
22 you all today.

23 One, the emission control industry is ready to
24 provide verified retrofit technologies for the off-road
25 rule today. We've certainly worked hard to expand the

1 retrofit options that are on the verified list. And there
2 are more verified retrofit options coming to provide both
3 PM and NOx reductions for off-road equipment. And we're
4 hopeful that the early incentives that are a part of this
5 package will be used by the industry to implement the
6 verified technologies that are available.

7 My second point is that my industry needs
8 regulatory certainty to build a viable business and to
9 create tens of thousands of jobs associated with emission
10 control technology; and that's implementation as a part of
11 this and other rules that you all have adopted.
12 Regulatory certainty is critically important to make sure
13 that these companies can continue to invest their
14 resources to deliver verified technologies for use both
15 off road and on road as a part of your regulations.

16 And my third point is that given the shortfalls
17 that will be created as a part of the provisions that you
18 will adopt here today, there are other opportunities of
19 using emission control in other mobile sources that my
20 industry can help to provide some additional emission
21 reductions to help close that gap. There are
22 opportunities for using emission controls on off-road
23 gasoline engines that still haven't been utilized by the
24 State of California. There are opportunities for emission
25 reductions on crankcase emissions that are a part of all

1 existing diesel engines, whether they be off road or on
2 road.

3 So there are other opportunities that will be
4 available to you to help close some of the gap that is
5 created by the proposals that you will certainly approve
6 here today.

7 And I thank you for your time.

8 CHAIRPERSON NICHOLS: Thank you, Mr. Kubsh.

9 Henry Hogo, followed by Mike Salm.

10 MR. HOGO: Good morning, Madam Chair, members of
11 the Board. I'm Henry Hogo, Assistant Deputy Executive
12 officer of our Mobile Source Division at the South Coast
13 AQMD.

14 We have submitted a written comment relative to
15 the proposed amendments. But first I want to say that we
16 commend staff for proposing amendments that address AB 8
17 2X and commend staff for proposing early incentives to
18 trying to offset some of the emission benefits loss. But
19 we believe that there are -- there is a need to have
20 further language added to the amendments to fully recoup
21 the emission benefits lost.

22 I want to comment on Board Member Berg's comment
23 about the parking of vehicles. Where we see the issue in
24 emission benefits loss is that when a fleet receives the
25 retirement credit, they can use that to offset any further

1 action in the future.

2 So if a fleet has a fear Tier 0 vehicle, they may
3 have retired a few or taken them out of their fleet. But
4 the ones that are retired and will be parked could be used
5 again in the future. And that vehicle would have been
6 cleaned up under the existing regulation. So we believe
7 those credits, even though they're appropriate for the
8 economic situation today, they should be sunset after 2012
9 or not be used after 2012. And we have proposed that type
10 of amendment be added to the early credit provision.

11 In addition, we would like to see language added
12 to the adopting regulation -- I'm sorry -- adopting
13 resolution to monitor the economic situation. And if the
14 economic situation does not improve, this language could
15 be removed again or the Board can propose some potential
16 other actions to seek further relief.

17 We believe the Legislature intended to really
18 have a temporary use of these credits. And they did that
19 with a reduced activity credit, that those credits can
20 only be used for the next couple years.

21 And you did receive a letter from the Legislature
22 stating that if there are emission losses -- or the
23 emission benefits are compromised, that further amendments
24 should be made. We fully urge you to consider this
25 additional language.

1 Thank you.

2 CHAIRPERSON NICHOLS: Thank you.

3 BOARD MEMBER BERG: Madam Chair, could I just ask
4 a quick question?

5 CHAIRPERSON NICHOLS: Yeah, sure.

6 BOARD MEMBER BERG: Mr. Hogo, could you comment
7 on how you see this change affecting the SOON program.

8 MR. HOGO: We actually have had fleets applying
9 for SOON. And we're still oversubscribed in the sense of
10 fleets that do have the ability to look at replacing their
11 vehicles come in. And because of this lower activity, we
12 believe that there may be more applications to the SOON
13 program.

14 CHAIRPERSON NICHOLS: Yes, Mayor Loveridge.

15 BOARD MEMBER LOVERIDGE: Just at the conclusion
16 of testimony I'd like staff to respond to the two
17 suggestions offered by Henry Hogo.

18 CHAIRPERSON NICHOLS: Okay. We'll do that at the
19 end then.

20 Mr. Salm, followed by Alexandria Sanchez.

21 Is Mike Salm here? Salm Engineering and Grading
22 Contractors.

23 All right. Let's hear from Alexandria Sanchez.

24 Welcome.

25 MS. SANCHEZ: Hi. My name's Alexandria

1 Sanchez. I'm a field representative for
2 Assemblyman Anderson's office. And I just wanted
3 to briefly read you a letter that he submitted to
4 you guys.

5 "I write this letter to request that the
6 California Air Resources Board allow more time
7 for the compliance with the emissions regulations
8 for construction equipment and other off-road
9 diesel fueled vehicles, which was passed in 2007.

10 "As I've previously stated, the Board's goal
11 when these standards were set was a noble one.
12 All Californians want clean air. In fact,
13 California's construction industry has done its
14 best to comply with the new standards and have
15 begun to use newer less toxic equipment to
16 achieve that end since regulations were passed.

17 "However, the Board must consider the
18 economic environment in which we currently live.
19 Construction in California is down dramatically.
20 And many California construction companies, which
21 at one time employed nearly one million citizens
22 in our state, are looking at closing down, if
23 they have not done so already, as they're unable
24 to meet these new standards in the cost effective
25 manner. We must not let this happen. We must

1 get California moving forward again.

2 "At this time in our State's history, we need
3 to balance our desire to be a national leader on
4 clean air with economic realities of our time.

5 "I ask that CARB - California Air Resources
6 Board - relax its emissions regulations
7 passed in 2007 and allow more time for the owners
8 of targeted vehicles to comply with the Board's
9 goals and keep this industry alive in California.

10 "Thank you for your consideration on this
11 matter.

12 "Sincerely, Joel Anderson, Assemblyman."

13 Thank you for your time.

14 CHAIRPERSON NICHOLS: Thank you. Thanks, Ms.
15 Sanchez, and thanks to the Assembly Member for writing to
16 us.

17 All right. Michael Lewis then, followed by Scott
18 Erreca.

19 MR. LEWIS: Good morning, ladies and gentlemen.
20 I'm Mike Lewis with the Construction Industry Air Quality
21 Coalition. And I wanted to bring to your attention a
22 couple of things.

23 First of all, we support the proposed amendments
24 to the rule as far as they go. And we think there's three
25 items that we'd like to have you address.

1 One is with regard to the reduced fleet activity
2 and the definition of the period in which reduced activity
3 is calculated. We propose that it be the year-ending July
4 1st, 2007, as it is proposed for the March 1st, 2010,
5 rather than the midpoint of the year, which is what you're
6 staff is proposing. And I think if you look at the intent
7 of the legislation, that it be the period between those
8 two dates. It's between and not partially between.

9 Secondly, with regard to the sale of vehicles,
10 your staff's proposing to add a provision that the seller
11 must also notify CARB. We think that's an unnecessary
12 duplication of activity. The purchaser is required to
13 notify. They're required to register it in the DOORS
14 system. Your staff could easily amend the DOORS program
15 to allow for the purchaser to enter that data and to send
16 a confirming notice to the seller that they in fact
17 transferred it to that individual.

18 Thirdly, with regard to VDECS, the staff is
19 proposing a test, if you will, for determination on the
20 installation of VDECS is impossible. We think that's not
21 a very realistic test, that it's an unachievable
22 objective, and that you need to look at infeasible or
23 impractical as the definition for determination on
24 installation of VDECS.

25 Finally, I'd like to address the myth, if I can,

1 of lost benefits.

2 It's clear from the data that you have already,
3 with 97,000 pieces of equipment in the DOORS system, that
4 the fleet is smaller than you had originally projected, it
5 is newer than you had originally projected, and its
6 characteristics -- its operating characteristics are very
7 different. It's lower horsepower equipment, tends to be
8 newer, tends to be operated fewer hours.

9 Even South Coast in their comment letter
10 estimated that the fleet was going to be about 30 percent
11 smaller than had originally been the case.

12 Simply put, the emissions that you're trying to
13 reduce never existed in the first place. And I think,
14 Supervisor Roberts, you're right to raise the question of
15 where that blue line is. That blue line assumed a much
16 bigger fleet with older equipment and a recession that
17 never occurred.

18 If you recalculated that line, I think you'd find
19 that it in fact is well below where that red line is on
20 the staff's chart. And I hope that in October the staff
21 will come back with an updated accurate calculation of
22 those emissions.

23 But I think it's just ingenuous to continue to
24 perpetrate this myth that somehow we're losing benefits
25 when in fact those emissions didn't exist in the first

1 place.

2 Finally, the last time I was here I showed a
3 chart of what's happening to this industry. Not much has
4 changed except the numbers have continued to decline.
5 I've got an update of that chart. And if you look closely
6 at the numbers, you can see that virtually every measure
7 of construction activity in California is on the downward
8 trend, and is continuing so and probably will until some
9 time in the middle or late next year.

10 Thank you

11 CHAIRPERSON NICHOLS: Thank you, Mr. Lewis.

12 I have actually one question which might extend
13 your time for just a second. I took notes on your
14 comments. And I only wanted to ask you about the one
15 relating to notification.

16 MR. LEWIS: Yes.

17 CHAIRPERSON NICHOLS: As I understand it, the
18 seller notification relates to this issue about credits,
19 when people are seeking credit for having reduced their
20 fleet size. And I'm just wondering why you would put the
21 burden on the buyer to be taking care of making sure that
22 the seller's accounting is in order.

23 MR. LEWIS: Well, currently the burden is on the
24 buyer. Your staff's proposing to now add an additional
25 step where the seller has to provide notification that he

1 sold the equipment to another -- to the purchaser. And
2 right now the burden's on the buyer to have to add it to
3 his fleet for his purposes of bringing his information
4 up-to-date on the DOORS system.

5 Frankly, we see it as just one more step that's
6 going to create a potential violation for somebody. But
7 the way the system works right now, the buyer can't enter
8 it into the DOORS system until the seller releases it.
9 And what suggest is rather requiring the seller to do
10 that, allow the buyer to enter it and provide notice to
11 the seller that they can confirm that in fact they did
12 transfer the ownership to that individual. There is no
13 other way to -- you know, this isn't a DMV process where
14 there's -- where paperwork gets cleared and transferred.

15 CHAIRPERSON NICHOLS: I understand. I'm
16 interested in reducing paperwork burdens wherever
17 possible. That is why I flagged this issue when you
18 mentioned it.

19 MR. LEWIS: Okay.

20 CHAIRPERSON NICHOLS: Staff, I don't know if you
21 want to respond right now or if you want to wait until
22 later in terms of what you're thinking.

23 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
24 WHITE: No, we can address this one right now.

25 In conjunction with reporting your vehicles, ARB

1 issues an equipment identification number, almost like a
2 license plate for the vehicle. That sticks with the
3 vehicle for the life of the equipment.

4 And so what happens is that when a transaction
5 occurs in between the annual reporting periods, there's no
6 obligation for the seller to let us know that he no longer
7 has this vehicle. It's somebody else's responsibility.
8 And we hope that the buyer will tell us that that may or
9 may not necessarily happen. So we see this as a process
10 whereby when a vehicle is observed out in the field with a
11 particular number on it, we'll be able to clearly know
12 who's responsible for that vehicle, so we won't have to be
13 switching identification numbers, because we -- the buyer
14 tells us they got it but we don't necessarily know who
15 they got it from. And so there's a different number on
16 that.

17 And I guess I would liken it to when you sell a
18 vehicle, you have to let the DMV know that somebody else
19 has taken, you know, the legal liability for that vehicle
20 if it's, you know, found on the road, if it gets a parking
21 ticket or what have you.

22 So it's very much akin to a system whereby we'll
23 be able to follow who is responsible for a vehicle and
24 who's responsible for the compliance of that vehicle in
25 the field.

1 CHAIRPERSON NICHOLS: Okay. I understand. I'll
2 think about this some more, but I appreciate your comment.
3 Thanks.

4 Okay. Scott Erreca, followed by Jeff Farano.

5 MR. ERRECA: Ladies and gentlemen, my name is
6 Scott Erreca. I'm Vice President of Erreca's,
7 Incorporated. We've been in business in San Diego since
8 1955. We are a large fleet owner. And I am a former
9 president of the AGC here in San Diego. So I've been
10 involved in the industry pretty much most of my life.

11 The regulation is an onerous regulation and we as
12 an industry I think have adopted the mind-set that, you
13 know, it's not going to go away, it's something we all
14 have to live with, and it's something that we all need
15 because we all need clean air.

16 But to emphasize what Supervisor Roberts saw. In
17 2005 -- we budget all our equipment based on usable hours
18 so we know what our costs are. Our usable hours depending
19 on the pieces of equipment usually run between 1200 and
20 1400 hours. Our fiscal year this year will end September
21 30th. We won't have one piece exceed 500 hours. Most of
22 them will be between 350 and 400 hours.

23 I'm a union contractor. We employ operating
24 engineers. In 2005 I had a 125 operating engineers on the
25 payroll. This year I've got less than 30.

1 This is a tough, tough time for this industry.
2 The regulations that are coming forward are expensive. We
3 know that. We're trying to plan for it. But right now we
4 need time. We need time to be able to hold our businesses
5 together. I've gone from a volume of close to \$90 million
6 a year down to \$40 million a year, and I haven't laid off
7 one person that is associated with overhead.

8 I have to do that this Friday. I'm going to cut
9 my staff by 30 percent, and I hope it's enough. We need
10 time. And in this regulation, there's things that you can
11 do that can help us. The paperwork that you ask for us to
12 do, you also say that we can do it electronically. My
13 staff is pulling their hair out trying to be able to do it
14 electronically when the websites don't work. Don't ask us
15 to do something we can't do.

16 The update on the equipment we know has to be
17 done. We know right now parking the equipment, and
18 equipment that's usually valued at \$700,000 per piece, is
19 down at market level in auctions anywhere from 200 to
20 \$225,000, in the retrofit to bring it up to a Tier 3 level
21 is \$430,000.

22 It doesn't take an economic major to understand
23 it's not viable to spend that kind of money in a depressed
24 market. We need the time.

25 The last point I'd like to make. In your

1 amendment as far as safety, you mention if the VDECS can't
2 be put in and it's impossible. Don't give enforcement the
3 wording "impossible," because then you can come out and
4 someone can sit there and try to have us spend a fortune
5 to try to make it work and it still won't work.

6 Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 BOARD MEMBER ROBERTS: Before you --

9 BOARD MEMBER RIORDAN: Madam Chairman?

10 BOARD MEMBER ROBERTS: Go ahead, Barb.

11 We've got a couple questions for --

12 BOARD MEMBER RIORDAN: I'm trying to decide if my
13 microphone is on or not.

14 Let me ask about this website. Certainly we need
15 to be very helpful in that. And so I'm just -- I don't
16 know the details, but I am hoping that some staff member
17 can meet with this gentleman and to try to work something
18 out, because we don't want to make life miserable. Your
19 life is miserable already. But, you know, we don't
20 need --

21 (Laughter.)

22 BOARD MEMBER RIORDAN: -- to add to it.

23 No, no, no, no.

24 MR. ERRECA: You have no idea.

25 (Laughter.)

1 BOARD MEMBER RIORDAN: No, no, no, no. He is
2 reflecting what is happening. I happen to be from the San
3 Bernardino County area. And I can tell you this machinery
4 is parked, and they have no project on the ground ready to
5 go. I mean it's really tough.

6 So we need to do everything possible to work
7 through the reporting system. And I don't think we can do
8 it publicly. But let's have somebody meet with him maybe
9 after this particular item.

10 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
11 WHITE: Absolutely, Board Member Riordan.

12 Just so that -- this is the first we've heard of
13 some problems with the website. So far we felt the
14 website's been very successful in terms of accepting data.
15 We've received information from 2700 fleets and over a
16 hundred thousand vehicles already reported through our
17 DOORS, which is our on-road reporting -- our off-road
18 reporting system. So it seems to have been very
19 successful. And we have resources available where we can
20 help this gentleman get his information in. And we'll get
21 his information after the hearing and --

22 MR. ERRECA: Clarification. The original website
23 that you had us go to to be able to work out our fleet
24 requirements and to plan for the future worked very well,
25 and actually gave us answers -- actually gave us answers

1 to questions on "what ifs," what we could do.

2 But what my staff is telling me now is that you
3 refer us to go to an EXCEL spreadsheet that is very
4 cumbersome and does not even give us the answers that we
5 used to get beforehand.

6 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

7 WHITE: I understand. Okay.

8 MR. ERRECA: And I can't tell you exactly what
9 that is. I'll put you in touch with my nephew. He's a
10 graduate of USC. He's no dummy. And he's very computer
11 literate, so he can explain everything to you.

12 (Laughter.)

13 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

14 WHITE: That sounds good. We're happy to sit down and
15 work with him.

16 CHAIRPERSON NICHOLS: Thank you, sir.

17 BOARD MEMBER ROBERTS: I have a question.

18 CHAIRPERSON NICHOLS: Oh, another question before
19 you leave.

20 BOARD MEMBER ROBERTS: Your equipment, is it all
21 the hourly metered equipment?

22 MR. ERRECA: Yes.

23 BOARD MEMBER ROBERTS: And have you projected out
24 how -- given the credits, how this is going to work for
25 you?

1 MR. ERRECA: It's going to help a lot. You know,
2 it's not an end-all, as staff has told you, come 2013.
3 It's a bullet. It's kind of like a bridge loan that you
4 hope doesn't come due but it's going to come due. And
5 I'll tell you where we're coming from if -- looking at the
6 economics, I don't see the housing industry in California
7 coming -- you know, I've lived and breathed with how the
8 housing industry is probably 60 percent, 70 percent of our
9 volume outside of public works projects.

10 I don't see, and neither do the builders see,
11 this industry coming back much before 2014, 2015. There's
12 too much inventory, there's too much unsold homes, and
13 there's too many foreclosures coming down the road, that
14 it would take an incredible unprecedented turn of
15 economics for us to be able to consume that kind of
16 inventory. It's not going to happen.

17 So I'm looking -- I'm gambling that Europe turns
18 before we do. And we can move most of our noncompliant
19 equipment that will need to be turned in 2013 to Europe.
20 And we're going to downsize, because I don't see it coming
21 back.

22 BOARD MEMBER ROBERTS: So by just reducing the
23 stock of equipment that you've got and shipping it to
24 other areas, which I guess will accomplish something for
25 California and less so for --

1 MR. ERRECA: Well, it will come -- the sad
2 part -- you know, this regulation is needed for health.
3 But unfortunately the sad part is that it's probably going
4 to take a really decimated effect on the industry. No
5 offense to CARB or anybody else. It's just this is a
6 perfect storm, and unfortunately this industry's going to
7 be the perfect loss.

8 BOARD MEMBER ROBERTS: I just wanted to make an
9 observation. It was for -- you're going through very
10 difficult times. There was a hundred and something
11 employees that don't have any work, and I suspect they're
12 going through an even more difficult time right now.

13 MR. ERRECA: Right.

14 BOARD MEMBER ROBERTS: And I don't think we want
15 to lose site of that.

16 MR. ERRECA: Thank you.

17 CHAIRPERSON NICHOLS: Thank you, Mr. Erreca.

18 Okay. Jeff Farano, followed my Mike Shaw.

19 MR. FARANO: Good morning. My name is Jeff
20 Farano. I represent SA Recycling. SA Recycling is a
21 steel recycling firm. We recycle metals -- ferrous and
22 non-ferrous metals.

23 We would probably be considered one of the
24 original green companies because of what we do, taking all
25 the end-of-life automobiles, appliances and equipment off

1 the streets rather than going into our dumpsites, et
2 cetera. And so we understand the whole green industry.

3 We also -- we understand the CARB's intentions
4 and we agree with it and the need for it and these
5 amendments. But we do have some specific issues that we
6 would like to address with you today in regard to what
7 you're considering.

8 The first is -- and also I did submit a letter to
9 you. I think it's in your tab as number 13, is what I'm
10 told. It gives you a little more history of our
11 company, and which is important because it kind of
12 addresses what our issues are.

13 The first one is the 2007 baseline, in which
14 before that that we can consider in hours of operation and
15 other credits. And the problem that we're having -- here
16 we need some flexibility in the regulations because of the
17 issues we have. And, that is, prior to 2007 -- or at
18 2007, SA Recycling grew substantially in light of the
19 market itself. And we have facilities now throughout the
20 State of California. And those were all by way of
21 acquisitions and mergers, et cetera. And our records that
22 we're still trying to figure out, our hours of operation
23 and equipment that we have, is -- because they're mostly
24 small companies, we're not very accurate. And we're still
25 trying to figure that out. And we need some assistance in

1 being able to determine -- in flexibility and in getting
2 those credits, because a lot of that equipment, as the
3 previous speakers, is being -- ours have been reduced.

4 Our business has been reduced just like everybody
5 else's. And in the end of 2008 that financial line
6 revenue didn't go at a angle. It went straight down.

7 But we need some assistance in helping with that
8 equipment. And we can establish that there's less hours
9 of operation the less equipment being used. But it's
10 difficult to do it by way of specific record. And we like
11 need to work with staff and in doing that,

12 The other option -- the other consideration is
13 the retrofit options. We need more. We're having
14 difficulties in some of the retrofits.

15 And then the VDECS, the 15 percent, we disagree
16 that it should be limited to 15 percent if it's of a
17 benefit. In order to provide us an incentive, it
18 shouldn't be limited to 15 percent. It should -- we're
19 having difficult economic times.

20 And then, finally, I would also reiterate the
21 term of "impossibility". That is really kind of a killer
22 to us, and I think you need to seriously consider that.

23 CHAIRPERSON NICHOLS: Your time is up, sir.

24 MR. FARANO: And I appreciate your concern. And
25 if you have any questions for me, I'll hear and answer any

1 questions.

2 CHAIRPERSON NICHOLS: I don't want to extend your
3 time with more questions. We're getting -- we're slipping
4 here. But I do want to say one thing.

5 I am assuming - and, staff, indicate if I'm
6 correct - that staff is available to meet with you to
7 discuss the issues that you raised with regard to
8 interpretation of the rule, and flexibility as far as, you
9 know, what happens if you don't have records that you can
10 produce to establish your baseline and that type of thing.
11 I believe we have people who are available for just
12 exactly this purpose.

13 So, Mr. White, would you please indicate that
14 that's correct.

15 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

16 WHITE: Yes, Madam Chairman, you are correct.

17 CHAIRPERSON NICHOLS: Okay. Thank you, sir.

18 (Laughter.)

19 MR. FARANO: Thank you.

20 CHAIRPERSON NICHOLS: Thank you.

21 Mike Shaw, followed by Debbie Day.

22 MR. SHAW: Good morning. My name is Mike Shaw.
23 I'm a local guy. I live here in La Mesa. I've been a
24 member of the contracting community in San Diego since
25 1976. And I'm a co-owner of Perry & Shaw, Inc. We are a

1 heavy grading contractor in southern California.

2 A few statistics.

3 In 2006 we typically employed between 150 and 175
4 union operating engineer workers with an annual payroll of
5 between 10 and \$11 million.

6 Currently we employ in the neighborhood of 20
7 operating engineers and our annual payroll is just at 2
8 million bucks.

9 In 2006 all of our equipment was working and we
10 were running probably 25 to 30 percent additional
11 capacity. Today 75 percent of our equipment is idle.

12 Our fleet size in 2006 was 56,000 horsepower.
13 Our current fleet size is about 28,000 horsepower.

14 Our retirements were almost entirely Tier 0. We
15 retired these machines because it was our understanding
16 early on in this process that we were going to be getting
17 credits for early retirements. As it turned out, we were
18 only getting credits for NOx in your regulation, not PM.
19 Now we have PM, and that will be beneficial to us.

20 Even with the -- we've spent over \$5 million on
21 repowers for our fleet. And we are currently at 34
22 percent Tier 3 on the large equipment. We are not even
23 close to compliance in the second year of the regulation
24 based on your current regulation.

25 So I have to say that these legislative changes

1 are very key to us and key to the survival of our
2 business.

3 There are more changes I feel need to be made.
4 We're in support of the CIAQC requests on this thing. I
5 think that one of the things that's a real problem
6 currently is the VDECS and the safety issue. And, you
7 know, I think that you should -- there should be a
8 requirement to respond in 30 days rather than 60 on a
9 request for a variance on the VDECS.

10 And I'll reiterate what everybody else is saying,
11 that the threshold of impossible is not reasonable on a
12 subjective process such as safety. And we -- you know, I
13 request that you take a good look at that. And it should
14 be something that would be modified to say something that
15 is practical.

16 In addition, I think that it's very important
17 that you look at getting good data on what really is
18 happening, so that when your October meeting comes around,
19 you have the real curves in front of you to consider
20 instead of the stuff that was put together several years
21 ago with a fleet that apparently never did exist.

22 So these are things I would ask you to consider.
23 And if the real curves tell you that the emissions aren't
24 there, I would ask that you might consider modifying the
25 regulation even more to reflect what really is happening

1 here.

2 Thank you.

3 CHAIRPERSON NICHOLS: Thank you, sir.

4 BOARD MEMBER BERG: Madam Chair, can I just
5 clarify.

6 My understanding, on retirements that PM and NOx
7 credits were given.

8 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

9 WHITE: During the initial adoption of the regulation,
10 retirements where -- Tier 0 retirements in shrinking
11 fleets were granted PM credit.

12 Is that correct?

13 My staff is telling me that I am correct in that.

14 So PM credit was granted, is currently in there
15 for vehicle retirements if a shrink is -- a fleet is
16 shrinking and they're retiring their Tier 0 vehicles, as
17 Mr. Shaw has indicated they have.

18 BOARD MEMBER BERG: So that's both credits?

19 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

20 WHITE: Both for NOx and PM, yes.

21 BOARD MEMBER BERG: Okay. So could you get
22 together and make sure that you're getting all the credits
23 you deserve?

24 MR. SHAW: I will when we find out what you're
25 going to do today.

1 (Laughter.)

2 CHAIRPERSON NICHOLS: Either way you've got an
3 issue. So one way or the other I think you need the
4 information, sir.

5 CHAIRPERSON NICHOLS: Debbie Day, followed by
6 Nick Pfeifer.

7 MS. DAY: Good morning. My name is Debbie Day,
8 and I'm the Executive Director of the Engineering and
9 General Contractors Association. We represent the general
10 engineering contractors in San Diego, those who do the
11 infrastructure work; the contractors who use, buy, sell,
12 and retrofit that big yellow iron.

13 When this process started the early stages of the
14 regulation formation, the information provided by staff
15 was biased and much of it inaccurate. Data and statistics
16 provided to staff by the industry were immediately
17 suspect. It's been a long journey, and I hope today, with
18 your help, we can take several giant steps forward.

19 Because of the off-road regulation and the
20 convergence of the regulation, the worldwide decline of
21 the economy, including the U.S. banking system and our
22 State debacle, the construction industry in California is
23 at a virtual standstill.

24 I am asking you today to help put the industry
25 back to work.

1 With few exceptions, the construction industry is
2 made up of reasonable, well meaning people. Recent
3 articles seem to imply there is empathy building in
4 Sacramento for the VDECS industry. If the regulation is
5 modified favorably to construction fleets, the VDECS
6 companies, an industry that didn't exist a decade ago,
7 might be irreparably harmed. That sentiment doesn't seem
8 to exist for the construction community, many of whom have
9 been building your infrastructure, your homes, and your
10 office buildings for centuries, and many of whom have had
11 to close the DOORS on second and third generation
12 companies.

13 In a recession, construction is always the first
14 to come back. We need to work together to help stimulate
15 the business in California by bringing back construction
16 jobs.

17 You as Board members have the ability to lead the
18 way to a once-again healthy, vibrant California economy.
19 Please today add the legislative amendments to the
20 off-road regulation, recognize the reduction in the size
21 of fleets, the resulting reduction in emissions statewide,
22 and the benefits therefrom to the health of our California
23 residents. Direct staff to review fleet data available
24 from company reporting, and update their model and
25 emission assumptions. And relax the safety determination

1 by removing the impossible language. It sets the bar too
2 high.

3 The legislative changes you are considering will
4 be helpful. However, there are key issues that still need
5 to be resolved.

6 Thank you for meeting in San Diego and thank you
7 for your anticipated help.

8 CHAIRPERSON NICHOLS: Ms. Day, I want to just
9 make a comment to you, because your remarks are rather
10 general in nature as well as the specific comments.

11 And one of the things your testimony is asking us
12 for is to show empathy to, you know, work with your
13 industry and so forth. And I believe that there's
14 actually a pretty good history in the development of this
15 rule of the Air Resources Board working with the industry
16 as the rule was developed.

17 But in order to engage in a truly partnership
18 kind of relationship and discussion, there has to be some
19 degree of respect I believe shown on both sides. And when
20 you use terms like "biased inventory," those are very
21 loaded words. I understand that there are people who
22 disagree with the numbers as to what the emissions from
23 the fleet in California are today or even what they were
24 at the time that the rule was granted -- or the rule was
25 first passed by the staff. We went into that very

1 extensively. And at the end of the day we adopted a rule
2 based on the best information that we had.

3 But to refer to that as biased is simply sending
4 a message to the public and to your members that somehow
5 there's an agency up there in Sacramento that's trying to
6 use inflated numbers or deliberately somehow, you know,
7 distorting the situation. And that's factually not
8 correct. I don't believe you have any reason to believe
9 that that's correct. And I think when you make statements
10 like that, you hurt your credibility, frankly.

11 So I just want to make that comment to you,
12 because I hope you'll reconsider as you -- as we move
13 forward in this discussion. Otherwise I think there's a
14 lot of merit in your comments and I hope we're going to be
15 able to respond to some of them, frankly.

16 MS. DAY: Thank you. And I apologize if I've
17 offended anybody.

18 I do think when this process started that staff
19 had built the case for the regulation around incorrect
20 data. And they were extremely helpful in working with us.
21 We worked closely with a lot of your staff all over
22 California. EGCA is a member of CIAQC and we've worked
23 with CIAQC.

24 It did seem that no matter what the data was that
25 the industry put forward, that it was rejected by staff as

1 inaccurate.

2 So I do apologize if I've offended anybody. I do
3 think that certainly in recent months that there has been
4 a lot of working together and there have been some
5 concessions made and we're very grateful for those.

6 I didn't mean to offend staff.

7 CHAIRPERSON NICHOLS: And I just took advantage
8 of this opportunity to -- because I really think that
9 we're at a point where we're searching for right answers
10 here.

11 MS. DAY: I agree. I absolutely agree.

12 CHAIRPERSON NICHOLS: And so hopefully we can
13 continue in that --

14 MS. DAY: And I think my comment that was
15 apparently offensive did have to do with the beginning
16 stages of putting this regulation together.

17 And I do think that in recent months things have
18 been changed, and we're very appreciative for that and for
19 the help that we're hoping you'll give us.

20 CHAIRPERSON NICHOLS: Thank you.

21 MS. DAY: So thank you.

22 BOARD MEMBER ROBERTS: I have one question. And
23 I, first of all, would have associated myself with the
24 comments that are made. And I appreciate your recognition
25 and acceptance of that.

1 But in addition to changing the word "impossible"
2 that's come up several times - I heard you associate
3 yourself with that - it's not clear to me that the other
4 things -- it seems to me that the other things that are in
5 the staff recommendation, the changes here, that you're
6 also in agreement with those. Is that --

7 MS. DAY: (Nods head.)

8 BOARD MEMBER ROBERTS: There's other things
9 longer. You've made reference to the recognition and the
10 reductions in sizes, which the staff is going to be coming
11 back with additional information for us to look at. But
12 in terms of what we're doing today, it sounds -- I may be
13 missing something. I'm trying to pin this down, if you
14 would help me. The specific things with respect to the
15 staff recommendation today, you have a concern with the
16 word "impossible". Are there other specific concerns?
17 Because it's not clear to me.

18 MS. DAY: Do you want me to -- I think -- what
19 I'm asking is what I think most of the speakers that have
20 been speaking this morning having to do with the
21 regulation are asking for.

22 I'd be happy to reread what I have.

23 BOARD MEMBER ROBERTS: Yeah, help me -- could you
24 get to the specific things with respect to the staff
25 recommendation that's before us today?

1 MS. DAY: The recommendations that we are hoping
2 will be considered, that you will add the legislative
3 amendments to the off-road regulation; recognize the
4 reduction in size of fleets, the resulting reduction in
5 emissions - which has partially to do in my opinion with
6 the industry downturn, but it also has to do with the
7 impact that the regulation has made on the industry - and
8 the benefits that have come from that reduction; and to
9 direct staff to review the fleet data that's available now
10 that the machinery has been registered, and from the
11 company reporting from the registration, and update their
12 model in emissions assumptions.

13 So take that information into consideration when
14 you're looking at proposed changes that you might be
15 willing to make.

16 BOARD MEMBER ROBERTS: Okay. I think we're
17 largely agreeing on everything --

18 MS. DAY: Does that answer your questions?

19 CHAIRPERSON NICHOLS: I think so.

20 MS. DAY: Okay. Thank you very much.

21 BOARD MEMBER ROBERTS: The only thing that's
22 dangling out there may be the word "impossible".

23 CHAIRPERSON NICHOLS: That's definitely a red
24 flag.

25 MS. DAY: The impossible dream maybe.

1 BOARD MEMBER ROBERTS: Well, we've got a lot of
2 dreams.

3 MS. DAY: Thank you.

4 CHAIRPERSON NICHOLS: Thanks.

5 All right. Nick Pfeifer, followed by Sean Edgar.

6 MR. PFEIFER: My name's Nick Pfeifer. I work for
7 Granite Construction, Inc., as a member of their corporate
8 equipment department. And one of my responsibilities in
9 that position is ensuring that Granite is in compliance
10 with the off-road rule and other CARB regulations. And
11 I'm also a member of the Off-Road Implementation Advisory
12 Group.

13 Granite's off-road equipment fleet is
14 approximately 1100 pieces -- or was approximately 1100
15 pieces. That number's constantly changing. And I'm here
16 today to ask the Board to approve the amendments proposed
17 by staff to give fleets credit for emissions reductions
18 over the past three years.

19 Granite has seen a huge decrease in activity over
20 the past three years. We're currently working on exactly
21 what that number is. What I can tell you is it's in
22 excess of a 30 percent reduction from 2007 levels.

23 And we're also seeing equipment disposals in
24 excess of what our initial compliance plans were.

25 For those reasons, we feel that the credits will

1 give fleets recognition for actual emissions reductions
2 and will allow fleets to bridge the gap to Tier 4 engine
3 technology. I think this -- you know, this reduction in
4 fleet size with moving the older equipment out of
5 California, the hope being that when things pick up, the
6 new equipment available is going to come with Tier 4
7 engines and will be the cleanest engines available.

8 My one concern today is something that was
9 mentioned with Mike Lewis. And it's the proposed
10 requirement for reporting an engine sale within 30 days.
11 This is something that I feel is an additional
12 administrative liability on a fleet. And I don't think it
13 is a necessary step to add to the process. I think
14 something similar to what CIAQC has proposed where the
15 DOORS system kicks out a confirmation that goes to the
16 equipment owner, or you can simply confirm that a piece of
17 equipment has been disposed of, rather than placing an
18 additional administrative requirement that could create a
19 possible citation, is -- I think that's a logical step.

20 So I appreciate the opportunity to testify today.
21 Thank you.

22 CHAIRPERSON NICHOLS: Thank you.

23 Mr. Edgar, followed by Lynn Devine.

24 MR. EDGAR: Chair Nichols and Board members.

25 Sean Edgar, Executive Director of the Clean Fleets

1 Coalition. Thank you very much for the opportunity to
2 speak to you this morning. And I'd like also to thank the
3 Board on giving credit where credit is desperately needed
4 and due relative to recognizing the emissions reductions
5 that are ongoing. As Mr. Pfeifer referenced, the
6 industry's looking for a bridge. Hopefully it is a
7 shuffle ready bridge that we'll see to be built very soon
8 to a place that will bring us back to be a fantastic
9 golden state.

10 But all for today, we know that times have
11 changed significantly just since you were last in San
12 Diego in May of 2007 hearing about this particular item at
13 your first hearing on this item. And your staff at that
14 time was referencing that the economy was still a little
15 bit humming. Some of the contractors that you've heard
16 from today were perhaps still experiencing the economy
17 humming a little bit. And of course the bottom has
18 dropped out. And here we are essentially today
19 establishing a process that the Legislature granted this
20 Board to give credit where the credit is reflective of
21 real emissions reductions.

22 So we'll look forward to working with your staff
23 in the confines of the three elements that were discussed
24 to really drill down on getting credit where it's
25 commensurate with the reality that the equipment is

1 running less. As Mrs. Riordan was observing out in the
2 Inland Empire and, Mayor Loveridge, in your neighborhood,
3 this tremendous and significant emissions reductions. And
4 we obviously want to make sure that the credit reflects
5 what the reality is of less emissions.

6 And I'll just reference in closing that you heard
7 some very impassioned testimony from Mr. Erreca and Mr.
8 Shaw and Mr. Farano referencing the difficult times that
9 industry is in. However, you also realize that those same
10 folks are staring down the truck and bus rule which we're
11 going to work aggressively to work through the track
12 process to get that rule hopefully kicked off successfully
13 and at a good rate. However, we know we're going to have
14 challenges on the statewide truck and bus rule in this
15 same context. And your staff estimates about 76,000
16 heavy-duty diesel vehicles in the hands of the same
17 contractor community that you've heard from today. So
18 that's just going to -- it's going to be a very
19 significant effort that's going to be needed.

20 So, in closing, I'll just echo Mr. Lewis's
21 comments to say that flexibility on the baseline date
22 would really be appreciated, especially in the context, as
23 I say, recycling had mentioned where records aren't
24 available.

25 And, Chair Nichols, I appreciate your indicating

1 that staff can be creative and reasonable on working with
2 industry on some flexibility provisions relative to
3 documents.

4 The VDECS, you heard from Mr. Kubsh that they're
5 making great strides. But they need some certainty. And
6 I was perhaps a naysayer in the nine years I've been doing
7 this. The retrofit device industry has really stepped
8 forward on the on-road, and I think they're starting to
9 launch into off-road.

10 And, finally, just on limiting the early carrot,
11 what I'll call the early retrofit provision, we'd like to
12 see that expanded beyond 15 percent if possible. And of
13 course your ongoing economic monitoring is appreciated.

14 So thank you giving credit where credit is due.

15 CHAIRPERSON NICHOLS: Thank you very much, Mr.
16 Edgar.

17 Lynn Devine, followed by Tom Swenson.

18 MS. DEVINE: Good morning. It is still morning.

19 I'm Lynn Devine. I'm testifying on behalf of the
20 American Lung Association to express our disappointment
21 with the rollback in the off-road diesel regulatory
22 requirements being considered by the Board today.

23 As you are well aware, these regulations to
24 control diesel emissions are cornerstone to achieving
25 healthy air in California and meeting federally mandated

1 air quality standards.

2 Staff has previously indicated that modifications
3 to the off-road regulation as mandated in Assembly Bill X
4 28 are estimated to result in the 17 percent shortfall in
5 emission reductions needed from the off-road equipment in
6 2014. A critical air quality deadline.

7 We recognize that staff is still reviewing the
8 inventory and developing updated estimates of the emission
9 impacts of the regulations and the downsizing of fleets
10 that has occurred due to the economy.

11 However, any loss of emissions benefits is
12 unwarranted due to the severe air quality and public
13 health situation in California. Rollbacks to existing
14 diesel regulations not only threaten public health, but
15 shift the burden of emission reductions on to other
16 sectors of the economy, likely at a higher cost.

17 If the future emissions reductions lost from
18 Assembly Bill X 28 are not somehow obtained from off-read
19 diesel equipment, these emission reductions will need to
20 be found elsewhere. Given that diesel emission reductions
21 are highly cost effective, it is likely that substitute
22 measures to make up for these emission reduction losses
23 will be even more costly.

24 California and the Air Resources Board have long
25 been a leader in reducing air pollution emissions and

1 particularly stands out for its groundbreaking efforts to
2 reducing diesel emissions.

3 My son and I both have asthma that needs to be
4 monitored and managed. We are greatly disappointed that
5 the Legislature and the Governor directed this revision in
6 the CARB regulation and are very concerned about the
7 impact of the revision on public health and the State's
8 clean air goals.

9 The ALA appreciates that the staff did include
10 some provisions intended to incentivize early retrofits
11 and off-road equipment and thereby reduce emission impacts
12 of the revisions.

13 We urge the Air Resources Board to conduct a
14 careful accounting of the process of the Off-Road
15 Construction Equipment Rule and reducing diesel emissions
16 and progress towards State Implementation Plan compliance
17 targets.

18 We believe the Board must carefully account for
19 any losses of emission reductions due to the revisions
20 being adopted today, and be ready with contingency
21 measures to make up emissions losses and to keep
22 California on track with its State Implementation Plan.

23 Thank you.

24 CHAIRPERSON NICHOLS: Thank you, Ms. Devine.

25 Tom Swenson, followed by William Davis.

1 MR. SWENSON: Good morning. Tom Swenson, Cleaire
2 Emission Controls Director of Regulatory Compliance.

3 We're a California manufacturer of retrofit
4 equipment. We're headquartered in San Leandro,
5 California, with manufacturing right here in San Diego.
6 We offer three products currently verified for off-road
7 equipment including one that provides NOx reductions. And
8 we continue to make investments in additional technologies
9 to bring them forward to compliance.

10 I'd like to echo some of the comments here around
11 a certainty. Wherever you folks land today or in October
12 or next January or I don't know when, we're making
13 business decisions based -- and investments based on these
14 decisions. Our products are not things that people go out
15 and buy because they want them. They buy them because
16 they're regulatory required to do them.

17 It takes us on the order of 12 to 18 months from
18 when we conceive of a product, develop it internally,
19 bring it forward to the verification folks at CARB, run
20 the processes there to bring it to market. So our lead
21 times are pretty substantial. And then that doesn't
22 include what we need to do relative to production
23 requirements and tooling and those sorts of things.

24 So what we're looking for you folks to do is land
25 somewhere, so that we can then make whatever investments

1 are appropriate, so we can bring cost effective solutions
2 for folks to comply with your rule.

3 Just one last comment. At the end of 2009 is a
4 popular milestone year for your regulations. We've got
5 the refuse and the municipal and utility vehicle
6 regulations. Big year for that. Plus the school bus
7 incentive money is coming out now, which will make the end
8 of the year quite busy for us.

9 And the other piece of the -- is the double
10 credit for large fleets. And we're trying to sort of
11 manage all that. And if it was all possible to even push
12 that out three months, the large fleet double credit, into
13 the end of March, that would be quite helpful for us in
14 terms of manufacturing and installation.

15 Thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 William Davis, followed by Glenn Inverso.

18 MR. DAVIS: Good morning, Madam Chairman and
19 members of the Board. It's good to see you all in
20 southern California, and certainly a much easier commute
21 as I was -- I'm Bill Davis. I'm with the Southern
22 California Contractors Association.

23 So I was driving from my home in San Pedro this
24 morning. I was listening to the San Diego radio station
25 to try to get some clue about what horrible traffic I'd be

1 facing. And, lo and behold, here comes the big promotion
2 for Comic-Con, which as you -- those of you who know me, I
3 sort of have a literary bent. And this one brought
4 forward my big attraction to comic books when I was a boy,
5 especially one of my favorites, which was Flash Gordon.

6 The great villain in that series was Ming the
7 Merciless, who opposed Flash at every turn.

8 And so using that metaphor I must tell you that
9 when we started this journey on the off-road regulation
10 nearly five years ago, your agency often played the role
11 of Ming the Merciless for those of us in the construction
12 business.

13 Today marks the culmination of a very long
14 process involving the housing bubble, the global economic
15 collapse, fraud on Wall Street, unrelenting pressure on
16 the environment, and the Legislature. We were and are
17 very grateful to the Legislature for providing this
18 opportunity for our industry to receive small
19 consideration due to the terrible economic situation that
20 you all have heard about today and over and over again.

21 And we hope with your adoption of these
22 provisions that the days of role playing for all of us are
23 behind us. We partnered with your staff through the
24 Off-road Diesel Implementation Group, the ORIAG Group,
25 Elizabeth and Erik and Kim, over the last year. And we

1 have broadened our understanding of the rules. We've
2 transmitted that broader understanding to our members.

3 This past week we contacted every single fleet
4 owner who's a member of our association and told them that
5 they had to get their registration in or face the
6 consequences.

7 And we were doing some of your work, I hope, for
8 that.

9 And we also think that through this process the
10 staff has gained a deeper understanding of our industry.
11 And I was pleased to see that they're expanding the ORIAG
12 concept into the on-road diesel regulation with a similar
13 group. And that's all good news.

14 There will be other issues and challenges ahead
15 of us. But it is our sincere hope that we can all, all
16 leave our superhero capes at the door as we go forward and
17 work cooperatively to resolve these issues without rancor
18 and based on good economics, good science, not science
19 fiction.

20 Thank you very much.

21 CHAIRPERSON NICHOLS: Thank you, sir. I
22 appreciate your comments. And it's nice to have a
23 literary reference, even if it is to Flash Gordon.

24 (Laughter.)

25 BOARD MEMBER ROBERTS: I'm hopeful he'll go and

1 change into his Flash Gordon outfit and head down to
2 Comic-Con next.

3 (Laughter.)

4 CHAIRPERSON NICHOLS: I would take off my cape,
5 except it's cold up here.

6 (Laughter.)

7 CHAIRPERSON NICHOLS: All right. Mr. Inverso,
8 welcome.

9 MR. INVERSO: Yes, thank you.

10 My name is Glenn Inverso. We run a family
11 business that's been in business for 63 years in San Diego
12 County. This is my first time speaking, but I had to say
13 something. I don't know if I'm nervous or just
14 frustrated.

15 But like you heard before from the contractors,
16 the feeling on the street is a lot of frustration.
17 There's no incentive to grow, because these regulations --
18 remember, this is one of many regulations we deal with.
19 The frustration is not to grow; it's to downsize.
20 Everybody I talked to, and we're in the same predicament,
21 our equipment usage is down 60 percent or we had -- we're
22 half of what we were last year unemployment.

23 So what worries me is we keep layering more and
24 more regulations on the private sector. We're laying
25 people off. People are going on unemployment. You lose

1 your tax base, and pretty soon who funds CARB or who funds
2 the Government? That's what -- I mean I know it's common
3 sense. But I can't comprehend with the layers of
4 bureaucracy and trying to run a business and try to turn a
5 profit - which is not evil to make a profit these days -
6 I'm just worried about small business -- we work a lot
7 with small and medium-sized business. The feeling in the
8 street is they're going to shut down, they're going to
9 downsize to a point where they can survive. And then at
10 that point they're going to shut down. So I just wanted
11 to make that point.

12 Thank you.

13 CHAIRPERSON NICHOLS: Well, thank you for coming
14 out.

15 BOARD MEMBER ROBERTS: Madam Chair, you might --
16 since small business was mentioned and you had an
17 announcement that went out regarding a new staff person,
18 you might make him aware of that.

19 CHAIRPERSON NICHOLS: Oh. Well, yeah, it's a --
20 we had not put out a formal announcement. We're going to
21 kind of wait until she arrives. But we have filled the
22 role of small business ombudsperson for the Air Resources
23 Board. We've made an appointment of a person who used to
24 do something similar for the South Coast District back
25 when they were first really beginning to deal with a lot

1 of different types of industries that they hadn't
2 regulated in the past. And she's achieved a lot of
3 recognition at the national level for her work in this
4 area. She's a small business person herself. Her name is
5 La Ronda Bowen, and she'll be joining us on Monday. And
6 her specific mission is to work with us to make sure that
7 our regulations appropriately reflect and understand the
8 needs of small businesses and also to make sure that we're
9 doing outreach across the board in a more effective manner
10 in terms of dealing with small businesses.

11 I do think our staff has in this and other rules
12 developed, you know, fairly good working relationships
13 with a lot of associations and groups. They've evolved
14 some pretty good techniques in terms of going out on the
15 road and doing demonstrations. And I know we have a
16 number of people on our staff whose numbers are on speed
17 dial to people in the industry who have questions. And
18 I'm sure you could be one of their regular callers if you
19 were so inclined.

20 But mainly I think we all recognize that we're in
21 very -- this is not just a typical cycle that we're in in
22 California. This is a very serious -- a very serious
23 economic crisis that we're in the middle of. We do need
24 to bend our efforts to doing what we can to help get out
25 of it.

1 And I made a comment before which it may have
2 seemed facetious. But, you know, in a sense I suppose you
3 could say one of the few benefits that you can see out of
4 a bad economy is, yeah, there aren't a lot of -- there
5 aren't as many emissions of pollution out there. It's not
6 as much as pollution as we thought there was going to be.
7 This is not the way we like to go about achieving these
8 results. This is not our goal. Like you, we want to see
9 growth, we want to see people buying new equipment, people
10 being able to invest in the newer, cleaner equipment
11 that's coming on board. That's what we are about in terms
12 of pushing new technologies.

13 So what we're here to do today is to try to make
14 some modifications in the existing rules to make them
15 hopefully a little bit more adaptable and useful for the
16 people who have to live with them.

17 But in the broader sense, we know that going
18 forward we've got a lot of work to do to try to establish
19 really careful and robust relationships with all of the
20 groups that we regulate, especially those that are
21 characterized by a lot of smaller businesses. Because
22 these are just very difficult times for everybody and,
23 frankly, regulating small businesses is hard - it's hard
24 on the businesses. It's hard for the regulators too,
25 because there are just many more individual situations

1 that you have to be prepared to deal with. But we have to
2 learn how to do that better.

3 So we appreciate your coming and giving us your
4 thoughts.

5 Charlie Cox and Kerri Toepfer are our last two
6 witnesses as far as I know. If there's anybody else, you
7 need to make sure you've given your name in.

8 Okay. Mr. Cox.

9 MR. COX: Thank you.

10 Good morning, Madam Chair and members of the
11 Board. My name is Charlie Cox. I represent Ironman Parts
12 and Services. We're basically the largest retrofit
13 installer in the State, with more than 8,000 installations
14 under our belt so far. You know, when you look at the
15 number of retrofit installations that were performed under
16 the Solid Waste Collection Vehicle Rule, for example, we
17 did well in excess of three-quarters of those. So we've
18 done more than a handful.

19 If I could shamelessly swipe Mr. Davis's analogy.
20 We're the trusty sidekick in this scenario. Our task is
21 to make sure that the background work gets done, the
22 things behind the scenes get finished.

23 I'm also a member of the Off-Road Implementation
24 Advisory Group. I'm the Chairman of the Retrofit
25 Subcommittee. So I had couple of comments on the proposed

1 changes.

2 You've obviously heard the word "impossible"
3 several times this morning. Clearly that's something
4 we're not fond of either. But what I would suggest is
5 that staff continue the progress they're trying to make
6 with the Occupational Safety and Health Standards Board in
7 terms of selecting which standards, whether they're ISO or
8 SAE, some form of standards that we can abide by.
9 Obviously as an installer and someone with a lot to gain
10 or lose by doing this right or doing this wrong, we very
11 clearly need to understand what our rules are, what the
12 rules of engagement are. We will abide. We just need to
13 know what they are very soon.

14 In terms of the double credit. I wanted to point
15 out something that's a little -- a small change I think,
16 small twist from what you've heard so far, in that, you
17 know, clearly large fleets are not immune from these
18 economic changes that have been taking place. Small
19 fleets absolutely take a hit. Medium fleets take a hit.
20 But the proposal right now before you is to extend the
21 double PM deadline for small and medium fleets but not for
22 large.

23 Now, that's challenging, because particularly for
24 larger fleets, they're looking at the bottom line, they're
25 trying to find a way to cost effectively achieve these

1 emissions reduction credits. And most of them are trying
2 to do so through the use of larger horsepower, higher
3 dollar machines that are harder to replace. The available
4 options for those fleet operators is significantly smaller
5 than it is for, say, medium and small engines.

6 So we propose potentially extending that deadline
7 for the large fleets, if not for the same timeframe, maybe
8 at least until the Board hears the update from staff,
9 whether that's in six months - I heard a proposal for some
10 time next year. So whenever that update takes place, I
11 would like to see maybe the large fleet's deadline
12 extended until that point. Just a thought.

13 And, finally, just pointing out that we're
14 capable of handling many more installations than we're
15 presently doing. As Tom Swenson from Cleaire already
16 pointed out, people don't buy these because they like to,
17 people buy them because they have to. So we're directly
18 affected by your changes today as well.

19 Thank you.

20 CHAIRPERSON NICHOLS: Okay. Thank you.

21 We have our last witness then, Kerri Toepfer.

22 MS. TOEPFER: My name is Kerri Toepfer and I work
23 with Hawthorne Machinery.

24 I wanted to basically talk about what Mr. Erreca
25 was talking about. In August of 2008 I was handed the

1 task of reporting our rather large fleet through the DOORS
2 system. And in the beginning I realized -- I think I was
3 like within the first 100 to report. And I know there's
4 been like 4,000 fleets that have reported. So I know that
5 everybody got really busy. And everybody was very helpful
6 in the beginning.

7 And a few months ago I made several calls. I had
8 several problems with the DOORS reporting system. You
9 said you didn't really hear of any problems. But I never
10 got any calls back and nobody ever even followed up with
11 it.

12 I had problems with sold equipment, passwords --
13 I have two passwords for my account. I could never get
14 that resolved. And information changed before my eyes of
15 stuff that I had reported. All the manufacturers changed
16 from Cat to Perkins. And just some weird stuff.

17 So I got pretty concerned, and I resorted to
18 documenting everything with photographs for myself so I
19 could sleep at night, because it's been kind of a grueling
20 process. I've climbed all over engines and machines and,
21 you know, just done this whole thing. And, you know, I'm
22 done, but I just have concerns of, you know, who's
23 actually, you know, checking this information out or
24 calling people back, because nobody's called me back.
25 So --

1 CHAIRPERSON NICHOLS: Would you please leave your
2 card or your information with the clerk. And we will be
3 sure that somebody gets back to you.

4 MS. TOEPFER: Thank you.

5 CHAIRPERSON NICHOLS: Thank you. You're duly
6 heard here.

7 I have not received any other names. Is there
8 anybody else who thought they should have been on the list
9 that hasn't been called?

10 If not, I think we get to close the public
11 hearing portion and return to discussion with the staff.

12 I think we've heard a number of issues that have
13 been raised that the Board would like to probably explore
14 a little bit further before we vote on this item.

15 I think the one that probably I saw the most
16 heads nodding around was the language about impossibility
17 as being the only way you could demonstrate that you
18 couldn't install a piece of equipment.

19 So do you want to -- being a lawyer, I tend to
20 move more in the direction of infeasibility myself.

21 But --

22 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
23 WHITE: Well, the choice of the word -- I won't say aside.
24 Actually this new provision is one of several tests that
25 fleets can use to demonstrate that a retrofit cannot be

1 installed in their vehicle.

2 First, if an installer or manufacturer, someone
3 like Cleaire or Ironman, determines that it cannot be
4 safely installed, that would satisfy the safety
5 requirements in here and would exempt that vehicle.
6 Certainly in being impossible in terms of being in
7 conflict with a federal or state safety requirement
8 clearly is our intent.

9 And those two aside, we have a kind of a
10 catchall. If there's other documentation that can be
11 provided that would show that it can also not be safely
12 installed, that could serve as grounds as well.

13 So this language is one of but three tests that
14 exist and options that exist for fleets to demonstrate
15 that a retrofit cannot be installed on a vehicle safely.

16 CHAIRPERSON NICHOLS: Okay. Well, I think -- I
17 think I will get support for my request that you change
18 that word. It's just a -- it looks like you're setting up
19 a barrier that is almost an impossibility literally to
20 prove. So let's fix that one.

21 I mean overall it seems to me what we're doing
22 here -- what we've heard from people is that they accept
23 the fact that this is responsive to what we were asked to
24 do by the Legislature and the Governor. You know, and I'd
25 like to say I don't think -- this Board is not exactly

1 unaware of the fact that there are construction vehicles
2 parked around the state or that there's not work going on
3 out there. So we're not -- we didn't sponsor the
4 amendment. Our job is to regulate in the field of air
5 quality. But we certainly understand the atmosphere that
6 we're working in and the conditions that require this to
7 be done. And we're doing our best to implement the
8 instructions that we've received in a way that we hope
9 will maintain as much of the benefits as were out there as
10 consistent with the current situation, but at the same
11 time to convert as much as possible in the direction of
12 incentives rather than regulations. And I really do
13 appreciate the staff's efforts in that direction. I think
14 that was very positive.

15 However, there are clearly some indications out
16 there that there may be a need in the future for further
17 revisions or changes if by 2014 or 2013 really things
18 haven't turned around. And there's also a concern about
19 whether -- whether and when we're going to have better
20 data about the fleet that's out there. And I know the
21 staff is asking for more time for coming back to the Board
22 on this. But I'm wondering why you really feel you need
23 that amount of additional dime.

24 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
25 WHITE: I think that -- well, the reasons that we've asked

1 for some additional time is because of the new data that
2 these proposed amendments will be providing to staff. And
3 I think -- you heard from Ms. Day that there is always
4 some debate as to the appropriateness of data when it's
5 used to try and make projections and estimates of where
6 things are and where they may go in the future. And what
7 we have is an opportunity to get some actual data, some
8 hard data from fleets in California that have been
9 significantly impacted by the recession. And we can
10 understand exactly how vehicles are being retired. Are
11 they being retired and sold? Are they being just idled,
12 with the intent that when times get a little better
13 they'll be able to use those vehicles again? How much is
14 the activity down and how has this impacted finances?

15 So I think we'll be able to come back with a much
16 more robust and complete picture of what the recession has
17 meant on emissions and on the industry if we could do that
18 at a time after we have an opportunity to collect this
19 data as opposed to trying to do it ahead of that data
20 coming in.

21 CHAIRPERSON NICHOLS: So you expect you'll be
22 getting this data when?

23 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
24 WHITE: The data to obtain the reduced activity credit
25 will be submitted -- must be submitted to ARB by March --

1 it will come in next March.

2 So we feel that by taking that in the early
3 spring, crunching that data, we can come back towards the
4 middle of the year with an assessment of what all that
5 data is, and start to have some -- see some -- hopefully
6 see some signs of the economy starting to recover as well
7 and can report on that.

8 CHAIRPERSON NICHOLS: Comments or questions?

9 Barbara.

10 BOARD MEMBER RIORDAN: Madam Chair, there was one
11 element of concern that people mentioned. And I'm having
12 trouble trying to figure out what would be the problem.
13 And it was on the notification of sale.

14 I would think if I owned something, if I was
15 going to get credit for something that I had sold, I'd
16 want that known immediately.

17 It occurred to me maybe we have made it
18 difficult. But the notification - staff, hopefully tell
19 me this is true - is very succinct and very simple. Is
20 it?

21 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

22 WHITE: That's correct. Who you are and what the
23 equipment identification number of that vehicle was. I
24 believe that's what we're asking for.

25 BOARD MEMBER RIORDAN: Right. And it would seem

1 to me that that would just -- you know, as much as I want
2 to help the industry in any way I can to make life
3 simpler, I would think that's just something you'd want to
4 do, not that you have to do it. "I want that so I can
5 claim my credit some day."

6 CHAIRPERSON NICHOLS: Well, I think the fear
7 would be that this would then become like a separate
8 violation. Somebody might be cited for that if a piece of
9 equipment gets -- as I understand the way the enforcement
10 system works is, they're inspectors out there and they
11 actually see equipment. And if they think they've found a
12 violation, they're going to go searching for the person
13 that owns the equipment and issue a citation. This would
14 help avoid conflicts over who actually owned it, so it's
15 helpful. From the perspective of the purchaser, it helps
16 them not get tagged when they don't deserve to be. But at
17 the same time it does open up a greater risk I guess for
18 the seller. That seems to be the -- just for having
19 failed to file their paperwork on time. Or that at least
20 would be what they'd be worried about.

21 Mr. Goldstene, maybe you can elucidate this
22 further.

23 EXECUTIVE OFFICER GOLDSTENE: No, I think that
24 that's perfectly described. I just wanted to make you
25 aware that Dr. Telles has a question.

1 CHAIRPERSON NICHOLS: Oh, I'm so sorry.

2 (Laughter.)

3 CHAIRPERSON NICHOLS: We need to move you over or
4 put you up on --

5 BOARD MEMBER LOVERIDGE: We're down in the pits.

6 CHAIRPERSON NICHOLS: I'm sorry.

7 Dr. Telles.

8 BOARD MEMBER TELLES: I had a data question too,
9 because I think the 2014 deadline that we're all facing is
10 very important. And we have a problem in San Joaquin
11 Valley that these numbers are being used for our PM 2.5
12 plan and our ozone plan and all that.

13 And as the American Lung Association pointed out,
14 that if we're not reaching our emissions reductions, that
15 we're into a serious problem and this will be a bigger
16 problem for our local industry in trying to squeeze down
17 more emissions from them.

18 So I think we need, you know, the data fairly
19 quickly to be able to do some of this planning. And it
20 seems like a simple number that should pop out rather
21 quickly. It's just the consumption of diesel.

22 I notice that the industry when they gave us this
23 little thing, even they stopped their diesel consumption
24 estimate at 2008. And I'm sure that number is available
25 and you probably have it. And that would somewhat

1 indirectly correlate with what's really happening in the
2 emissions world. And I think you could use it as a rough
3 estimate.

4 Do you have any opinion on that?

5 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

6 WHITE: Well, certainly the use of diesel fuel is one
7 indicator that we've looked at. One of the challenges
8 with diesel fuel use especially when you look at off-road
9 diesel fuel use is that, unlike gasoline that's taxed when
10 you sell it, that gasoline is not taxed. So you have it
11 going into locomotives, you have it going into
12 agricultural uses, both of which are not covered by the
13 rule, as well as the sources that are covered by the rule,
14 and then trying to tease out from that what portion of
15 that is another -- it becomes an estimate. So you've just
16 simply recreated another estimate that makes it
17 challenging.

18 We've tried to look at a lot of different
19 indicators, from housing starts to construction revenue to
20 diesel fuel use to try make some heads of that. And, you
21 know, there's certainly a range of impacts. And I think
22 we all agree that it's down. The question is certainly,
23 how far is it down? And I think we'd all like to get to
24 an answer that has probably a smaller error band around
25 it. It's been a larger one. And we feel that the data

1 that's going to come in is really going to give us an
2 opportunity to do that.

3 BOARD MEMBER TELLES: Will the data also have -
4 from the industry - their diesel -- you know, to get a
5 purer picture, their diesel consumption rather than just,
6 you know, their taking out this vehicle or whatever, but
7 actually what they're actually burning?

8 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
9 WHITE: That's one of the records that we're proposing to
10 allow fleets to use to indicate how much -- how much their
11 activity is down. Revenues would be another, employment.
12 So there's a lot of I think business indicators that
13 aren't -- certainly aren't as accurate as having hour
14 meters on each vehicle, but will give us an indication --
15 we should get a pretty good indication of how fleets are
16 responding and how activity has decreased because of the
17 recession.

18 CHAIRPERSON NICHOLS: Yes, Mayor Loveridge.

19 BOARD MEMBER LOVERIDGE: Two kind of questions.

20 One, if you could comment on the South Coast
21 points. And then, second, it was the PM deadlines, the
22 difference between small, medium, and large fleets and
23 what the premise is of the staff.

24 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

25 WHITE: Well, let me -- I'll address the first, which is

1 the comments from the South Coast and Mr. Hogo about a
2 sunset on the retirement credits.

3 And as we looked at the legislation, we looked at
4 the proposed amendments, one reason we did not opt to
5 include a sunset of that is in great deal due to the
6 letter we got from the Legislature clarifying their intent
7 on the legislation. And one of those was to develop that
8 credit consistent with -- as an extension of, if you will,
9 the existing retirement credit that is already in the
10 regulation which does not have a sunset on it.

11 And as we looked at the potential disbenefits of
12 that, one thing I think we all need to keep in mind is
13 that as these vehicles are sold out of a fleet and times
14 improve, the vehicles that are going to replace those sold
15 vehicles beginning in March of next year have to meet a
16 Tier 2 emission standard.

17 So what we're going to see is older Tier 0
18 equipment move out of a particular fleet and get replaced
19 with cleaner today Tier 1 and next year Tier 2 vehicles,
20 which are going to be significantly cleaner. So we felt
21 that the need to sunset that didn't exist in the same way
22 it did for the retirement credit, which the legislation
23 said that, you know, needed to include a sunset. And we
24 agreed with that.

25 In regards to continuing to monitor the use of

1 the credits - I think we fully agree with that - intend to
2 monitor how those credits are used in conjunction with how
3 we're looking at what is the impact on emissions and how
4 are fleets complying, and, as I think I've heard the Board
5 mention a couple of times, if needed, certainly report
6 back on what our findings are.

7 CHAIRPERSON NICHOLS: Other questions?

8 BOARD MEMBER LOVERIDGE: PM for --

9 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

10 WHITE: Oh, I'm sorry.

11 And the second question you had, Mayor Loveridge,
12 was in regards to the double credit. And one reason we
13 didn't extend that beyond March 1st of 2010 was that,
14 while I think there are a significant majority and
15 probably the vast majority of fleets are experiencing a
16 downturn, not all fleets are. We have spoken with a
17 number of fleets that have continued to remain profitable.
18 And the concern we would have is that we would be giving
19 double credit to fleets for taking actions to meet the
20 basic requirements of the regulation.

21 So we opted not to propose to extend that for the
22 larger fleets beyond what the Board's already approved.
23 But because the small and medium fleets have compliance
24 dates that are further out, we wanted to see what we could
25 do to maybe get those fleets to take some early actions.

1 And so we believe that by extending the deadline, we're
2 not going to have any long-term emission disbenefits but
3 we hopefully will have some short-term emission benefits
4 from that.

5 CHAIRPERSON NICHOLS: Okay. Yes.

6 BOARD MEMBER ROBERTS: We've heard so many
7 things.

8 First of all, I want to compliment staff. I
9 think that they're doing a really -- a great job on this.

10 The use and misuse of language has been such a
11 part of this, and it seems like all day.

12 The emissions in the air in California are down
13 significantly. Okay? Now, it hasn't necessarily been
14 caused by our action. That's a reality. The emissions
15 are down. That's what the Legislature has understood, I
16 think. And so we've got to do something.

17 There's been an economic train wreck, not here in
18 California only but all over. And because of that, not
19 because of any air board regulations. So the emissions
20 are down. If you take any projection that I've ever seen
21 over the last several years in what we were anticipating
22 for emissions, they're down. They're down across the
23 board in probably every category we measure. I know that
24 they're down with vehicle miles traveled, they're down
25 with every kind of business that's out there. And that's

1 the reality.

2 And to talk about we're losing benefits -- I
3 understand how we get to that term. But the reality is
4 everything we projected, we're down, not because of our
5 own actions but because of external forces. And I think
6 what staff is crafting here is a good solution.

7 And some of you know I have asthma. And I've
8 made this a case in point. I don't want to compromise on
9 any of those things. That's why we're retrofitting the
10 buses. That's why San Diego County recently increased its
11 fees, so that we would have more money to be able to
12 supplement the money that we're getting and get more of
13 these conversions, both in the private sector and in the
14 public sector, made. So these things are incredibly
15 important. But what we're seeing is a recommendation of a
16 postponement based on the enormous reductions that are
17 occurring because of the economy.

18 And I think staff's doing a good job.

19 The one thing that I guess concerns me, because
20 we're living in such a troubled time - and I want to have
21 the best information - I wonder if there's a way though
22 that earlier in the year, at the beginning of the year we
23 can kind of assess where we are, kind of take a look at
24 the economy, and see at that point, not that we
25 necessarily make any final changes, but at least position

1 ourselves -- if this economy is still seriously ill, that
2 we kind of look ahead.

3 I'm kind of worried about going through July of
4 next year and then, you know, with a whole series of
5 regulatory efforts underway. I'd like to look at it maybe
6 earlier in the year.

7 The best news I heard, one of the speakers said
8 that maybe we'll see, if not some upturn, at least the end
9 of the downturn by the -- you know, sometime next year.
10 And I certainly hope that's the case. And we're doing
11 everything possible here to see that that's exactly what
12 happens.

13 But I think we'll have a more complete picture of
14 all of these things, as you've suggested, by I think it
15 was July of 2010. But I wonder if we could just schedule
16 a premature meeting earlier in 2010, and at the very
17 earliest point, just to kind of look at where we're
18 projecting we're going and what the economy's doing at
19 that time, because this is so severe. I'm hopeful the
20 program you're putting forth is going to be efficient and
21 effective.

22 CHAIRPERSON NICHOLS: Yeah.

23 BOARD MEMBER ROBERTS: And I'm hoping things
24 don't get worse than we think they are.

25 CHAIRPERSON NICHOLS: While staff is conferring,

1 I'm going to interpret your comments here as a motion for
2 the -- that we consider the resolution and ask for a
3 second.

4 Do I have a second here?

5 BOARD MEMBER RIORDAN: Second.

6 CHAIRPERSON NICHOLS: All right. So we're now
7 moving towards a conclusion here. And this would be an
8 amendment that would deal with a date for reporting back.
9 Actually as the rule exists now, it requires an October
10 report. The staff was asking for an amendment to move
11 this off till next spring when they feel they'll have all
12 the data in on what's actually happening and will be able
13 to give us a good analysis of it.

14 But I think what you're hearing is just enough
15 concern about this -- I'm not sure frankly what we
16 would -- I mean without good data, just knowing that the
17 economy continues to be lousy, I don't know what we would
18 do at that point. We'd still be waiting for, you know --

19 BOARD MEMBER ROBERTS: Well, the best data will
20 be coming. But I think we'll even have more
21 information -- a lot more information than we do right
22 now. And I don't know that that would --

23 CHAIRPERSON NICHOLS: That's true.

24 BOARD MEMBER ROBERTS: I think it would give us
25 an earlier warning, you know. I guess I want to get a few

1 more canaries in here with us that we can see so we don't
2 wait for a catastrophe and then learn about it.

3 BOARD MEMBER RIORDAN: Would you not though have
4 some indication by, say, January of what's happening with
5 the equipment? You're going to get a trend. You've got
6 an implementation committee that's going to be able to
7 help you give you some trends.

8 You'll also know whether or not your stimulus
9 money is finally getting back to governments for projects
10 that are ready to go. To my knowledge, and not as a
11 current supervisor but as a former supervisor, some items
12 are ready to go if the monies flow.

13 But I don't know that the money has come in to
14 these governments to allow them to move those projects
15 forward. But by then, by January, we certainly would have
16 some preliminary ideas of where that government is.

17 MOBILE SOURCE CONTROL DIVISION CHIEF CROSS:

18 We can do it, Yeah.

19 This is Bob Cross.

20 We can do it. I think the quality of the
21 information is proportional to time in this case. But I
22 think we can certainly give you the best that's available
23 at that time and say it's getting a lot worse or it's the
24 same or it's getting better. And then that would be an
25 indicator on whether or not, you know, we need to --

1 CHAIRPERSON NICHOLS: I'd like to see a report to
2 the Board. I'm not sure that --

3 MOBILE SOURCE CONTROL DIVISION CHIEF CROSS:

4 Well, we have the truck rule going. Well, that's
5 December. Is that too early for us? You want to --

6 EXECUTIVE OFFICER GOLDSTENE: We can give an
7 update with whatever data we have when we come to the
8 Board in December.

9 CHAIRPERSON NICHOLS: We'll do an update in
10 December.

11 EXECUTIVE OFFICER GOLDSTENE: So you can just --
12 as we get the data, we'll give you what we have. You
13 know, it won't be as good as Bob said. But we can at
14 least show you the trending.

15 CHAIRPERSON NICHOLS: Yes.

16 But we should leave the July Board hearing time.
17 We want to give that time reserved on the schedule for a
18 further -- a fuller discussion.

19 BOARD MEMBER ROBERTS: That was my intention.

20 CHAIRPERSON NICHOLS: Okay.

21 All right. Subject to that understanding --

22 BOARD MEMBER RIORDAN: Second.

23 CHAIRPERSON NICHOLS: -- we've got the motion and
24 the second.

25 All in favor please indicate by saying aye.

1 (Ayes.)

2 CHAIRPERSON NICHOLS: Any noes?

3 Any abstentions?

4 Okay. Thank you. Thank you very much.

5 I think we're scheduled to take a lunch break.

6 EXECUTIVE OFFICER GOLDSTENE: Madam Chairman, I

7 just want to clarify something, that that motion also

8 included your change in language?

9 CHAIRPERSON NICHOLS: Yes, it did. Yes, it did.

10 EXECUTIVE OFFICER GOLDSTENE: Your "infeasible"

11 from "impossible".

12 CHAIRPERSON NICHOLS: I was taking that as having

13 been accepted without a formal vote, yeah.

14 All right. So we will take a lunch break.

15 Yes.

16 ASSISTANT CHIEF COUNSEL JENNE: I also wanted to

17 mention: Have there been any ex parte communications that

18 the Board wants to declare?

19 CHAIRPERSON NICHOLS: We failed to formally

20 disclose any -- does anybody have any ex parte

21 communications to disclose?

22 They do not.

23 ASSISTANT CHIEF COUNSEL JENNE: Okay. And I also

24 wanted to clarify that the record will be closed now, but

25 it will be reopened for a 15-day comment period based on

1 the changes that the Board has directed.

2 CHAIRPERSON NICHOLS: Correct. Thank you.

3 All right. We will resume at - 1:15? - at 1:15

4 then.

5 Thanks, everybody.

6 (Thereupon a lunch break was taken.)

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1 implementing the Zero-Emission Bus purchase requirement.

2 --o0o--

3 MR. DUEHRING: I begin with a brief overview of
4 the materials being presented today. First, I will
5 provide a summary of the history of the ZBus regulation,
6 and then discuss the current regulatory requirements as
7 last modified in 2006.

8 Next, I will provide an assessment of the state
9 of ZBus technology, discuss other efforts within
10 California and abroad, and then outline staff's
11 recommendation for future regulatory actions.

12 --o0o--

13 MR. DUEHRING: In February 2000, the Board acted
14 to reduce emissions from public transportation by
15 establishing a new fleet retrofit and modernization rule
16 for transit agencies and more stringent emission standards
17 for new urban bus engines and vehicles. Subsequently,
18 California has seen lower NOx emissions and an 85 percent
19 reduction in PM from transit buses.

20 Under the fleet rule, each transit agency was
21 required to select a compliance path, either the diesel
22 path or the alternative fuel path. The regulations also
23 included requirements for transit agencies to demonstrate
24 Zero-Emission Buses with the goal of developing zero
25 emission transit fleets.

1 A ZBus is defined as producing zero exhaust
2 emissions of any criteria or precursor pollutants under
3 any and all possible operating modes and climates. Buses
4 that meet these requirements include battery electric
5 buses, electric trolley buses with overhead twin wire
6 power supply, and hydrogen fuel cell buses.

7 The ZBus regulation contains three elements:

8 --o0o--

9 MR. DUEHRING: First, diesel path transit
10 agencies are required to initiate a ZBus demonstration.

11 Second, 15 percent of new bus purchases are
12 required to be ZBuses; and

13 Third, only large transit agencies whose fleet
14 size exceeds 200 urban buses are affected.

15 There are currently ten transit agencies whose
16 fleet size exceeds 200 buses. They range from L.A. Metro,
17 with almost 2700 buses, to Golden Gate Transit, with 209
18 buses. The transit agencies affected by the ZBus
19 regulation operate 6,800 urban buses, which represents
20 about half of the statewide urban bus population.

21 --o0o--

22 MR. DUEHRING: The current regulation has been
23 modified twice because ZBus technology, in particular fuel
24 cell buses, was still in development, and as a result
25 costs were too high.

1 reliability, availability, durability, cost and commercial
2 readiness of the latest generation of ZBus technology.

3 --o0o--

4 MR. DUEHRING: In 2006, through Resolution 06-28,
5 the Board directed staff to consider the following
6 criteria while assessing the technology readiness for
7 commercialization:

8 The 2006 criteria are listed in the second
9 column. And the current state of technology is listed in
10 the last column. The purchase cost of a fuel cell bus was
11 to be no more than 1.25 times that of an electric trolley
12 bus.

13 The warranty of the fuel cell stack was to last
14 at least 20,000 hours, which is equivalent to
15 approximately 240,000 miles on a diesel or CNG bus.
16 Current diesel or natural gas buses get a factory warranty
17 of about 300,000 miles.

18 The reliability, determined by the number of
19 miles between propulsion road calls, was to be no less
20 than 10,000 miles, which is approximately what a diesel or
21 CNG bus can attain today.

22 Availability was not mentioned in the 2006
23 resolution but was measured during the first phase
24 demonstrations based on an industry standard of 85
25 percent.

1 expanded transit, consistent with the goals of Senate Bill
2 375.

3 --o0o--

4 MR. DUEHRING: In summary, staff is requesting
5 the Board's endorsement of its four recommendations. If
6 you agree, the resolution will memorialize the Board's
7 intent to change the regulation to delay the purchase
8 requirement. This is important because transit bus
9 purchases for delivery in 2011 are beginning now.

10 The Board's direction to continue the second
11 demonstration in the Bay Area will allow staff to acquire
12 data from this demonstration to help assess commercial
13 readiness of ZBus technology.

14 Staff will also work with transit agencies to
15 develop a set of performance and cost criteria that can be
16 incorporated into regulation to serve as a trigger for the
17 purchase requirement.

18 We would plan to return to the Board late next
19 year with the proposed regulatory changes to formally
20 delay the 2011 purchase requirement and incorporate the
21 triggers, as well as provide early results from the second
22 demonstration program.

23 We will also begin developing a greenhouse gas
24 goal for transit and return to the Board with our
25 recommendations at a later date.

1 This concludes staff's presentation.

2 CHAIRPERSON NICHOLS: Thank you.

3 I think we are going to be hearing some different
4 discussion points coming from those who've signed up to
5 speak. So why don't we just turn directly to them at this
6 point. And then we'll have Board discussion later.

7 Beginning with Paul Jablonski and then James
8 Gaspard.

9 We will keep our three-minute rule in effect
10 though.

11 Thank you.

12 MR. JABLONSKI: Thank you.

13 My name is Paul Jablonski and I'm the Chief
14 Executive Officer for the San Diego Metropolitan Transit
15 System. And I welcome you all to San Diego, which now is
16 a bright sunny day out there.

17 MTS provides rural, fixed route, paratransit, as
18 well as light rail service to about 70 percent of San
19 Diego County. Last year we carried close to 92,000,000
20 passengers. And that averages about 275,000 people a day
21 on just under 700 buses and 134 rail cars.

22 Over the years as a partner with CARB, we have
23 aggressively pursued clean fuel strategies for our fleet.
24 Our rail system is obviously all electric. On the bus
25 side, nearly 80 percent of our fixed route fleet is now

1 powered by CNG. And by the end of this year, we will have
2 an average fleet age of less than six years. And our
3 paratransit fleet has been completely changed over from
4 diesel to gasoline. And we've made all this through
5 considerable investment in CNG and its infrastructure.

6 And now hybrid electric - we just added to our
7 fleet a group of gasoline hybrid electric vehicles.

8 It has not come without a cost. Buses are
9 anywhere from 75,000 to \$150,000, an increase charge about
10 22, 23 percent increase.

11 We have already built four fueling stations for
12 CNG. We will shortly start our fifth. And our last one
13 cost close to \$6 million.

14 I would like to thank CARB staff for the
15 cooperation and the working relationship that we've had
16 with them in order to try to achieve the fleet standards.

17 And in general we support the staff's
18 recommendation for the ZBus purchase requirement.

19 The regulations -- the current regulations were
20 intended to spur technology to a level that would permit
21 its use in fixed route service. That level really has not
22 been reached. Transit operators have no control over
23 production and should not have to invest in technology
24 that does not work in providing public transportation
25 effectively.

1 What is currently being marketed unfortunately is
2 not reliable, affordable or durable, and it's too costly
3 to warrant experimentation at this time.

4 We along with staff also suggest that additional
5 demonstration projects should not be required at this time
6 because they are financially burdensome. And the northern
7 demonstration projects either have not come on line or are
8 too new to gain additional information, and those should
9 be allowed to mature.

10 Implementing the ZBus rule or requiring any
11 additional mitigation efforts instead of it could have
12 quantifiable and very severe financial impacts on transit
13 agencies, especially at a time when transit funding at the
14 state level has been totally decimated. For us, that
15 would mean taking service off the street in order to
16 implement this.

17 CHAIRPERSON NICHOLS: Mr. Jablonski, you've used
18 up your three minutes.

19 MR. JABLONSKI: Okay. So in general, I ask you
20 to consider staff's recommendation. And we look forward
21 to continuing our working relationship with you and also
22 implementing performance standards looking at this in the
23 future and working with us as an industry to help develop
24 those performance standards.

25 I also will leave with your clerk of the Board

1 some -- I understand that you're in town for today and
2 tomorrow -- some transit passes. Get out and try the
3 system over the next couple of days. You can go back to
4 the airport by a bus stop right out here on Harbor.

5 So thank you very much.

6 CHAIRPERSON NICHOLS: Thank you. Appreciate
7 that.

8 I don't know if we're allowed to accept free
9 transit passes. I guess it's not the same as gift of
10 transportation, right?

11 BOARD MEMBER ROBERTS: It does not exceed \$5
12 dollars in value, I can assure --

13 CHAIRPERSON NICHOLS: All right. Very good.

14 (Laughter.)

15 BOARD MEMBER RIORDAN: And you could give it to
16 staff.

17 CHAIRPERSON NICHOLS: Well, thank you.

18 Okay. Mr. Gaspard and then Jim McElroy.

19 MR. GASPARD: I'm James Gaspard, Executive Vice
20 President, Design Line.

21 I just wanted to let the Board know that the
22 technology does exist for battery buses, okay, not the
23 fuel cell stuff. We are a manufacturer of buses, been
24 working in electric and in hybrids and in pure electric
25 for over 18 years. We deliver to six countries right now.

1 University of California at San Diego has bought
2 two of our zero-emission buses for delivery next year.
3 These are heavy-duty transit buses. They currently
4 operate around the world, full shifts, heavy-duty cycles.
5 They go out and come back, can be charged up.

6 So the technology does exist.

7 I understand the need for the delay. But I just
8 want to say that CARB has always been looked at as the
9 leader around the world. We sell around the world. I'm
10 selling to a lot of countries around the world pure
11 electric buses because of the leadership CARB has shown in
12 having the manufacturers advance the technology.

13 We've got hundreds of millions of dollars worth
14 of federal grants we're working with right now on
15 electrification of transit buses because of our
16 technology.

17 I just find it somewhat surprising after CARB has
18 driven this around the world that now you're going to take
19 a breather and sit on the sideline. I just hope that the
20 break is not too long. And that's all.

21 But we do look forward to your leadership. In
22 fact, currently I'm delivering buses to New York City and
23 Baltimore, plug-in electric buses. And because of your
24 leadership, people in the inner harbor in Baltimore,
25 Manhattan, the Bronx, Brooklyn will be breathing cleaner

1 air. And I just look forward to you reentering the game
2 later.

3 And in all, I do want to commend staff. Staff
4 was not aware of our product until about a month ago. We
5 stay below the radar, and we just talk to select clients.
6 We just didn't know we were so below the radar, nobody
7 knew of us.

8 (Laughter.)

9 MR. GASPARD: But we have been around for a lot
10 of years. We build the buses in the U.S., it's U.S.
11 technology, and it's all U.S. jobs for foreign markets and
12 the U.S.

13 Thank you.

14 CHAIRPERSON NICHOLS: Question for you. Hold on
15 just a moment.

16 BOARD MEMBER RIORDAN: One quick question.

17 What is the distance your buses can go on a
18 charge?

19 MR. GASPARD: Currently in heavy-duty transit
20 we're going between 90 and 120 miles a shift. And then
21 you come back in for charging. Or you can do fast
22 charging and stay out forever. We have an electric
23 hybrid -- like New York City's got a plug-in hybrid.
24 They'll run -- then they've got an on-board APU. They
25 take less batteries. The buses are similar except our

1 battery bus has a lot more batteries. The electric hybrid
2 has fewer.

3 And we use advanced battery technologies, the
4 lithiums, the sodiums. And we give very long warranties.
5 Our Warranties far exceed your implementation goals.

6 Their buses will run over half the day zero
7 emission. In fact, in testing in Manhattan they're
8 running over half the day in zero emission. And now
9 they're going into service. And then when the batteries
10 go down, the little APU comes on, which meets CARB
11 standards. They didn't even ask if we met EPA. They
12 said, "Do you meet CARB?" And then it comes on, charges
13 the batteries, goes off again.

14 BOARD MEMBER RIORDAN: Thank you very much.

15 MR. GASPARD: Thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 Steven Miller.

18 I'm sorry. Jim McElroy, followed by Steven
19 Miller.

20 MR. McELROY: We don't look at all alike.

21 CHAIRPERSON NICHOLS: No, not a bit, not a bit.

22 MR. McELROY: Chair Nichols, ARB Board. Thank
23 you for letting me speak today.

24 I'm going to really keep it brief, because I
25 think your staff has just done an outstanding job in

1 working with us, and particularly over the last two years.

2 And I want to thank your staff.

3 And I want to thank our members. We represent 80
4 of the major transit systems in California. Many of them
5 are represented here today. And we'd like to think we've
6 helped coordinate -- as an association, helped coordinate
7 the discussion with ARB staff and with you, the Board, and
8 with our members.

9 And I think -- again, I really just want to thank
10 the staff, your staff, and our members for really, really
11 working together to try to make this the best decision
12 possible.

13 So thank you very much.

14 CHAIRPERSON NICHOLS: Appreciate that very much.

15 Mr. Miller.

16 If people want to just come in and thank us, we
17 can extend their time, you know.

18 (Laughter.)

19 CHAIRPERSON NICHOLS: We could find a way to do
20 that.

21 MR. MILLER: Good afternoon, Madam Chair, Board
22 members, ARB staff. My name is Steven Miller. I'm the
23 Superintendent of Bus Maintenance for the Golden Gate
24 Bridge Highway & Transportation District in San Rafael,
25 California.

1 Before I get to my remarks I'd just like to make
2 a few quick observations. For one, I'm always extremely
3 proud and always leap at the opportunity to discuss with
4 anyone the tremendous strides we've made in reducing the
5 tailpipe emissions from our buses. I think when we look
6 back over the last ten years or so, it's absolutely
7 remarkable the amount of progress we made in such a very
8 short time.

9 Just to give credit where credit is due. It is
10 the ARB Board members and staff that have provided the
11 leadership, the motivation and much of the resources for
12 us to get there. So thank you.

13 I'm also highly motivated to make zero emission
14 buses a reality. I'm a firm believer that the internal
15 combustion engine is something that has outlived its
16 usefulness to us, at least in the context of public
17 transit.

18 As we move forward today though in considering
19 staff recommendations, I would like you to be very mindful
20 of the reliability component of the staff's
21 recommendation. That's a bit of a self-serving statement,
22 because I'm one of the guys who gets the phone call when
23 the bus is dead along the road.

24 You know, it's no secret that reliability is a
25 very necessary attribute of a successful transit system.

1 There's a lot of things that can make it unreliable - bad
2 scheduling, poor dispatching, vehicle availability. But I
3 think reliability is the number one, at least in my eyes.
4 And the reason for that is, if people cue up for a bus
5 that doesn't show up, they often get angry and maybe they
6 wait for the next scheduled run or maybe they go get in
7 their car and drive to work or wherever they're going.
8 When the bus shows up and they get on that bus and then it
9 dies on the highway, you've got an entirely another
10 situation on your hands. Hopefully it's not in the HOV
11 lane of a busy freeway, because then you're potentially
12 placing life and limb at risk.

13 So that's why I'd like you to pay particular
14 attention to, you know, reliability as we move forward and
15 craft the regulation.

16 Just to close. At Golden Gate Transit a majority
17 of our riders are riders of choice. And that's why I
18 wanted to speak to you today about reliability, because
19 those riders of choice make a decision every day to get on
20 our buses. So we don't want to move in a direction that
21 causes them to change that decision every day, because I
22 think we are doing a lot of good and we don't want to move
23 backwards.

24 But on the same token, I'm extremely excited
25 about our 12-bus ZBus demonstration. I think we're going

1 to get fantastic results. I see great news every day
2 coming from that program.

3 I'm very excited about some of the other ZBus
4 demonstrations coming on line such as Foothill Transit.
5 That's fantastic.

6 So I think the Board is taking and staff are
7 taking the right approach here. And let's wait and see
8 what the results are, and then we'll move forward.

9 I assure you that me and my staff will do
10 everything possible to make ZEBs work and we'll get there.

11 Thank you very much.

12 CHAIRPERSON NICHOLS: Thank you very much.
13 Appreciate your leadership on these issues.

14 Gene Walker, followed by Durand Ral.

15 MR. WALKER: Madam Chair, Board members and
16 staff. Thank you for having this hearing today, give me
17 an opportunity to speak. I'm Gene Walker. I'm the
18 Director of Maintenance for Golden Gate Transit, which is
19 the Bus Division of the Golden Gate Bridge Highway &
20 Transportation District.

21 I am also, and have been for many years, our
22 transit partner with AC Transit in original ZEB bus
23 demonstrations. Certainly that information and data we
24 found from the original ZEB bus has been moved forward now
25 into the ZEBA, the Zero Emission Bay Area. The first

1 trials of the ZEB bus found that the design of choice was
2 really a hybrid rather than a fuel cell driving electric
3 motor for a motivation device.

4 So we are looking at gaining more data and more
5 information from the ZEBA demonstration -- advanced
6 demonstration to be able to move forward with
7 implementation and reliability.

8 Reliability is very important. Cost is very
9 important.

10 Reliability for Golden Gate Transit. We have
11 transit service that's 68 miles in one direction, 40 miles
12 in another direction, east and west, north and south. The
13 potential for passengers alongside the road is never a
14 good thing with a broken down bus. People out in commute
15 traffic trying to get on the other bus is an unsafe
16 situation. So reliability is always very important to us.

17 We also look at not excluding other near zero or
18 other zero technologies. We think that those should be
19 embraced. Those that are on the drawing board certainly
20 should have a chance to be a new burgeoning technology.

21 We also understand that these aren't socks. One
22 size does not fit all. So maybe for Golden Gate Transit,
23 AC and some in the Bay Area, the zero emission bus, ZEB,
24 may be the ticket. Maybe in other transit operations an
25 all-electric or a combination of electric hybrid or

1 something that charges alongside the road is another
2 opportunity for that technology.

3 Like I say, one size does not fit all.

4 But I would be certainly in error if I did not
5 thank the staff for all of their leadership and hard work
6 doing these work stations -- pardon me -- workshops, and
7 certainly crafting this report and their recommendations.

8 Our relationship goes back a long ways. We have
9 a relationship of mutual respect and trust to where we can
10 work together in our common goal of reducing emissions
11 from public transit.

12 And, again, I want to take an opportunity to
13 applaud your staff. They do a very good job.

14 So thank you.

15 CHAIRPERSON NICHOLS: Appreciate that.

16 All right. Mr. Ral, followed by Lynn Devine.

17 MR. RAL: Thank you, Madam Chair and members of
18 the Board. I appreciate the opportunity to come here
19 today. My name is Durand Ral. I'm the Chief Executive
20 Officer of our transit system in San Bernardino,
21 California, and we serve the valley of San Bernardino.

22 A few things we -- and I too want to thank staff.
23 It's been great working with staff, and certainly much
24 different than in the past. It's been a much better
25 relationship. We're more focused towards objectives. And

1 that's been going very well, and we really appreciate
2 their cooperation, their help through this process.

3 Alternate fuels is not a new thing to me. I
4 think my first alternate fuel demonstration project was in
5 the mid-eighties when I served at the system in Riverside.

6 Mayor, good afternoon.

7 And that was a methanol demonstration program.
8 And we went from there.

9 And then in San Bernardino we started the
10 compressed natural gas. We have finished our first life
11 cycle of CNG buses. We just received 27 new buses, and
12 they are replacing our first CNG buses. So we have been
13 on the natural gas path for quite sometime.

14 We fought the cost issues and all of the things
15 we're talking about now, with zero emission buses and
16 hydrogen fuel cells, when we did the CNG buses. And we've
17 learned that there is a cost to technology, there's also a
18 benefit, and that cost-benefit has to be weighed against
19 each other. And I think in our case now we find that that
20 has happened. It's taken us 12 years to get to that
21 point. And it's almost going to take us that long
22 probably with fuel cell.

23 The difference in today's world is our economic
24 situation has substantially changed. And you've heard
25 that from the construction industry earlier today and

1 you'll probably hear it from us.

2 Not to beat that point, but I would feel remiss
3 if I did not say that that is an issue that we have to
4 consider going forward with this project.

5 Other than that, we strongly supported our
6 facility, Clean Air. I have -- my board members who serve
7 on the Air Quality Management District in the South Coast
8 that serve on my board of directors. So we have some
9 commonality in our upper leadership and elected officials
10 to make this happen as well.

11 So we're proud to be part of this process. We
12 just really need again to reemphasize reliability and
13 sustainability of service. It is not acceptable for us to
14 put a bus out on the street that can't stay out there a
15 full shift and meet the objectives of performance that it
16 has to do in order to meet the requirements of our riding
17 public.

18 So I thank you very much for your time. I hope
19 you would consider very seriously the recommendations made
20 by your staff to implement this new procedure. And we are
21 behind your staff, we're behind you in your efforts to
22 meet your objectives in this program.

23 Thank you.

24 CHAIRPERSON NICHOLS: Thank you very much, sir.

25 Lynn Devine, followed by Bob Leiter.

1 MS. DEVINE: Good afternoon. My name is Lynn
2 Devine. I'm testifying again on behalf of the American
3 Lung Association of California in support of the zero
4 emission bus regulation and to stress the importance of
5 ongoing work to demonstrate and deploy zero emission bus
6 technology.

7 The American Lung Association believes this
8 regulation is an important strategy for advancing the
9 cleanest transportation technologies, while reducing both
10 air pollutants and greenhouse gases.

11 We appreciate the staff's work in conducting a
12 review of the program and we do support the key
13 recommendation to delay purchase requirements while
14 maintaining progress on demonstration programs.

15 We recognize that a delay is needed to address
16 the higher than expected costs, especially in light of the
17 difficult financial situations of many transit agencies.

18 We agree with staff that the delay will be
19 helpful in collecting additional data on the ZBuses, and
20 are encouraged that several demonstration projects are
21 planned in the next few years within and outside of
22 California that will produce new data.

23 As we heard, dozens of new ZBuses will soon be
24 deployed around the world. By reviewing the information
25 learned from deployment of ZBuses around the globe, we can

1 get a much clearer view of this technology and prepare for
2 ramping up California ZBus procurement and use.

3 While we appreciate the need for delaying the
4 purchase requirement, we think there should be further
5 discussion of setting performance triggers in regulation
6 before adopting this approach. Setting technology
7 performance triggers establishes a precedent, and the
8 implications for technology advancement should be
9 carefully considered.

10 In addition, there are operational and
11 maintenance factors that impact the performance of ZBuses
12 that also need to be taken into consideration, as these
13 factors are largely under the control of bus operators.

14 Again, we appreciate the staff's work and the
15 need for some delay in purchase requirements, but support
16 moving forward on this important program. Once fully
17 implemented, the ZBus program will contribute to improved
18 public health and greater interest in and use of clean,
19 quiet, and reliable transportation.

20 Thank you.

21 CHAIRPERSON NICHOLS: Thank you very much for
22 your continued involvement in this program.

23 Mr. Leiter, followed by Dana Lee.

24 MR. LEITER: Thank you, Madam Chair and members
25 of the Board. I'm Bob Leiter. I'm the Director of

1 Planning for San Diego Association of Governments.

2 And as you're all aware, SANDAG is the first
3 metropolitan planning organization in the state that will
4 be preparing its next regional transportation plan in
5 conformance with the provisions of SB 375.

6 And I want to take this opportunity to thank Lynn
7 Terry and the staff that have been working with SANDAG and
8 with the Regional Targets Advisory Committee to develop
9 recommendations on the methodology for setting targets
10 and, in that process, to identify some of the leading
11 measures that we are going to be looking at in our RTP to
12 address greenhouse gas emissions. I think we're making
13 really good progress, and I look forward to continuing to
14 work with your Board and your staff as we move forward on
15 that.

16 We support the points made by the Metropolitan
17 Transit System, and would like to add some additional
18 thoughts related to the development of our bus rapid
19 transit and arterial rapid bus projects.

20 We think that one of the main strategies that
21 you're going to be seeing in regional transportation plans
22 pursuant to SB 375 is the greater deployment of public
23 transit throughout urban areas to reduce vehicle miles
24 traveled. And what we've learned about public transit,
25 our past successes with rail and commuter bus service show

1 that people will use transit if it provides the kind of
2 customer experience that's an attractive alternative to
3 driving your car.

4 And SANDAG has several freeway bus rapid transit
5 and arterial rapid bus projects that we're currently
6 developing that will be implemented over the next two to
7 four years. These projects are being designed as higher
8 speed rail-like services that will incorporate a number of
9 passenger amenities that are designed to tap new ridership
10 markets. Matching the right type of vehicle to the
11 service being operated is one of the key elements of bus
12 rapid transit and arterial rapid bus experience.

13 Having the flexibility to choose from a wide
14 range of vehicles is necessary to ensure that the vehicle
15 has adequate seating capacity, has the right suspension
16 systems, provide comfort and interior design features
17 aimed at commuters.

18 If we do this right, we're going to attract new
19 riders, what we call choice riders. If we don't do it
20 right, we will continue to have difficulty in attracting
21 those kinds of riders. And we've done a lot of research
22 on this and we've tapped into a lot of research on what
23 makes various types of transit work. And we continue to
24 refine that, and we'd certainly like to share that with
25 your staff.

1 So bottom line is that while we think the goal of
2 reducing emissions in bus vehicles is an important one, we
3 think it needs to be balanced with the ability to ensure
4 the range of vehicle types that are available so that we
5 can match the right vehicles with the right services that
6 we're offering.

7 And we would welcome the opportunity to work with
8 your staff and your Board as we're developing our regional
9 transportation plan and as you're developing your
10 strategies to share our research. And we certainly look
11 forward to continuing our partnership.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you. I know I speak
14 for all of us when I say we do too.

15 MR. LEITER: Thank you.

16 CHAIRPERSON NICHOLS: All right. Dana Lee and
17 then Joshua Goldman.

18 MS. LEE: Good afternoon, Madam Chair, members of
19 the Board. My name's Dana Lee and I'm with Long Beach
20 Transit. Long Beach Transit is a medium-size transit
21 agency. We serve 96 square miles with 28 million
22 customers a year. We have 246 buses, shuttles, vans, and
23 boats.

24 We absolutely share CARB's goals for reduced
25 emissions and improved air quality. In fact, we've been

1 one of the pioneering agencies for new technology. As an
2 example, we recently replaced 87 of our aging diesel
3 40-foot buses with hybrid gasoline electric buses, making
4 for almost 46 percent of our 40-foot bus fleet hybrid
5 gasoline electric. And our customers are really pleased
6 with these. And we're happy to be doing something to
7 improve the air quality.

8 We've invested a premium of over \$16 million
9 dollars for this new technology to purchase, maintain and
10 develop training for these vehicles.

11 We absolutely support staff's recommendation to
12 defer the purchase requirement. We believe that
13 technology's not ready yet for the rigorous needs of daily
14 transit operation. And also the costs of the vehicles are
15 extremely prohibitive now. We've suffered the last
16 several years some dire times with our state transit
17 funding, culminating particularly with this year where
18 state transit assistance was eliminated. And that makes
19 for a difficult time for us to invest in new technology
20 when many of our agencies are facing drastic service cuts,
21 layoffs, and fair increases.

22 We support the addition of reasonable performance
23 measurements into the rule and look forward to working
24 with CARB staff on developing those.

25 I think of particular importance for Long Beach

1 Transit as a medium sized agency is to continue to
2 consider us when the rule is triggered. For example, if
3 an agency falls below the minimum bus threshold when the
4 rule is triggered but then grows to become over it, there
5 needs to be an adequate amount of time for an agency to
6 kind of ramp up and invest in the technology and invest in
7 the training to get up to speed to be able to handle the
8 vehicles that we'll need to purchase.

9 We appreciate CARB staff's efforts to work with
10 us, and we look forward to working together in the future
11 on this rule.

12 Thank you very much.

13 CHAIRPERSON NICHOLS: Thanks.

14 Joshua Goldman and then Kenneth Stewart.

15 MR. GOLDMAN: Good afternoon. Thank you for the
16 time.

17 I'm Joshua Goldman, Director of Business
18 Development for Proterra and former gasoline hybrid and
19 fuel cell engineer on many of the buses running here in
20 the State.

21 Proterra's an emerging vehicle manufacturer. We
22 were based in Golden, Colorado, with offices in San Jose
23 and San Diego. And we are here ramping up for production
24 to meet California's air emission bus needs.

25 We currently have three buses on order from

1 Foothill, with nine more coming down the road. And our
2 intent upon 500 buses a year annually with a new
3 production facility we're breaking ground on in order to
4 meet 2011 and 2012 nationwide electric vehicle supply.

5 Our 35-foot composite body bus can drive 30 miles
6 or one to two hours of urban transit bus service and
7 recharge at the driver break point in under ten minutes.
8 In other words all day bus service with zero emission
9 technology at a fraction of the cost for fuel cell. But
10 for those systems like Golden Gate Transit, that have
11 longer range needs, we do have hydrogen fuel cell range
12 extension.

13 This technology is emerging. We're coming to the
14 point now we're moving from demonstration to pilot
15 programs and into production. And the work we are all
16 working here in order to commercialize this technology is
17 important not just from demonstration purposes, but for
18 companies like us to gear up to full scale manufacturer.

19 And I hope that as you revise these rules and you
20 look yes in the delay, we understand the need for the
21 delay given the infancy of this system. But we also say
22 that a much longer delay will cause us a delay in
23 production to meet the longer term high volume goals of
24 these products.

25 So we look to move in demonstrations in multiple

1 cities, in multiple parts of the states during lessons
2 exposed upon the vehicle application and on the
3 infrastructure needs for these vehicles, both fast charge
4 battery electric and hydrogen fuel cell, such that we can
5 take this technology to meet the 15 percent rule and
6 beyond. And the bottom line is this technology must be
7 cost effective for it to be truly sustainable, both
8 environmentally and economically. And with our
9 technology, we're well on that way.

10 That \$1.2 million bus is pricey, three times that
11 of a diesel, given that it's such small volume. But when
12 we reach a hundred buses, it drops 20 percent in cost.
13 When we reach a thousand buses, similar to current CNG or
14 diesel bus orders, the technology is now less than two
15 times the cost of diesel. With a 12-year return on
16 investment, given lower energy cost, that makes a lifetime
17 cost less than any diesel or CNG bus.

18 So thank you for your time.

19 CHAIRPERSON NICHOLS: Thank you. Thank you for
20 your work in this area.

21 Mr. Stewart and then Mike Hursh.

22 MR. STEWART: Good afternoon, Madam Chair,
23 members of the Board. My name is Ken Stewart. I'm Vice
24 President of Transportation at UTC Power. We make fuel
25 cells.

1 We also have been powering the AC Transit and
2 SunLine Transit bus programs over the last few years, in
3 addition to programs in Washington DC, Spain, Italy,
4 Belgium, and also my home town in Hartford, Connecticut.
5 Over 320,000 miles on these buses and over 31,000 hours of
6 operation.

7 Our position is that we believe that the existing
8 zero emission bus regulation should be preserved but
9 adjusted. And I would look to the Board and hoping that
10 they would provide guidance in regards to clean
11 technology, with continuity and certainty regarding these
12 rules going forward.

13 Why fuel cells? You've heard quite a bit about
14 it from the staff. I won't repeat it here. However, they
15 are ultimately efficient zero on-board emissions. Driving
16 and riding experience is vastly improved, so much so that
17 we have 68, 66, 140 percent fuel efficiency improvement
18 over other technologies.

19 Durability, we've seen a 300 percent improvement
20 in our durability life. The most recent fuel cells that
21 have been in operation with the demonstration fleet, many
22 of them have seen over 18 months of operation without ever
23 having to touch the fuel cell.

24 Availability's been 95 percent on the fuel cell.

25 For the bus itself, there have been varying

1 degrees of availability, much like what the staff has
2 reported. But also we've seen recent data internally at
3 UTC Power that indicates we've been running at 82 percent
4 availability for the entire bus. And that too has been
5 improving.

6 These are vital real-world feedback systems with
7 the demonstration fleet. And I would ask the continued
8 support for these ongoing demonstration fleets, because it
9 gives us the feedback in order to improve in order to have
10 a cost effective solution. For every bus that's in demo
11 service today, it's the equivalent of taking 77 cars off
12 the road in terms of nitrous oxides. Also, these buses
13 will continue to provide feedback for our improvements.

14 We propose a timetable to adjust the regulations.
15 Go to a year's worth of performance data on the next
16 generation program that is beginning this fall. And then
17 there'd be a sufficient opportunity for study to
18 incorporate the learning at the end of 2010, and then time
19 to procure a 5 percent amount in 2011, which is a
20 different proposal than where the staff has been
21 recommending. But we feel it is very advantageous in
22 order to step from 5 percent and then to 15 percent.
23 These buses would then be on the ground two years later in
24 2013, and then time to procure the second wave in 2013.
25 And then the 15 percent fleet ZBus requirement on the

1 ground by 2015.

2 In short, the bus in Hartford runs at a 95
3 percent reduction in greenhouse gas emissions because it
4 uses renewable hydrogen from Niagara Falls. That is the
5 ultimate goal and that is achievable.

6 We look for clean technology with continuity and
7 certainty as you consider your rule-making adjustments.

8 Thank you very much.

9 CHAIRPERSON NICHOLS: Thank you.

10 BOARD MEMBER SPERLING: Could I ask a question?

11 So UTC is one of the few major producers of fuel
12 cells for buses in the world, right? I guess Daimler,
13 Ballard --

14 MR. STEWART: I would like to think leading, but
15 yes.

16 (Laughter.)

17 BOARD MEMBER SPERLING: All right. We'll go with
18 that for now.

19 (Laughter.)

20 BOARD MEMBER SPERLING: Is there some step -- you
21 know, as we're looking into the future here, is there some
22 kind of step function in terms of your -- at least for
23 your company in terms of the development of fuel cells, do
24 you have another generation of fuel cells coming out at
25 some point? Or can you give us some insight into the

1 timelines?

2 MR. STEWART: Well, I don't necessarily feel
3 comfortable laying out our product plans. But I'd be glad
4 to do that with you or any members of the Board in
5 private.

6 However, I will say this, that we believe in this
7 technology. We would like to continue to invest. We need
8 a market. Because above and beyond UTC and our level of
9 corporate investment we have a supply base. And they need
10 to know that there's assurance of a marketplace that's
11 coming so that they can invest in their technology.

12 It takes sometimes days to make parts today. If
13 they were to invest a certain amount of manufacturing
14 capital, they could do those parts in hours or perhaps
15 minutes. That takes the cost down by tenfold, perhaps a
16 hundredfold on some parts. But they need the assurance
17 that it's worthy of their investment.

18 So the entire system needs that confidence. And
19 that's where I think the Board's policy could play a
20 significant role, is if there were certainty and
21 continuity for the road map, even if it were postponed,
22 but if we knew it was coming, then the entire supply chain
23 would invest and we would see the cost reductions that
24 we'd all like to see.

25 BOARD MEMBER SPERLING: Are these fuel cells

1 unique to buses or are -- are you just scaling them up?

2 Are they modular compared to like for cars?

3 MR. STEWART: I won't speak for other
4 manufacturers. But in our case, it is purpose built for
5 the bus.

6 BOARD MEMBER SPERLING: Thank you.

7 MR. STEWART: Thank you very much.

8 CHAIRPERSON NICHOLS: It is a chicken and egg
9 problem, exactly.

10 Okay. So our next witness is Mike Hursh from
11 Santa Clara and then Mr. Peeples from Alameda.

12 MR. HURSH: Thank you, Madam Chair. I'm Mike
13 Hursh H-u-r-s-h from Santa Clara Valley Transportation
14 Authority. I'm very happy to be here to testify today.

15 I want to tell you that we support staff in
16 delaying and redefining the zero emission rule. I do feel
17 somewhat like a soldier called in from the front lines to
18 report on a very difficult battle situation.

19 I need you to know that we are in the process of
20 laying off -- furloughing, laying off 60 to 80 employees
21 and reducing service by 8 percent. This is a direct
22 result of the total elimination of State funding for
23 transit and of course the difficult economic times that
24 we're in.

25 The gap that we happen to be closing or the gap

1 that we're attempting to close is \$7 million. That
2 happens to be the same portion of local Santa Clara County
3 tax dollars that were spent on the first zero emission bus
4 demonstration program that had a total cost of over \$18
5 million for three buses.

6 To give the Board an understanding of the
7 advanced demonstration that we're looking at right now, 12
8 buses, that project is in excess of \$33 million. We could
9 buy upwards of 50 2010 EPA-compliant hybrid buses.

10 Somehow we've lost our vision. Public transit is
11 the solution today. If the citizens of California,
12 particularly the citizens of California would leave their
13 car at home and switch to public transportation one day a
14 week, we could eliminate gas -- we could reduce greenhouse
15 emissions by 20 percent. Public transportation is the
16 solution. Clearly we need new fuel technologies, we need
17 new bus technologies. But this is being forced on our
18 backs. And the result is that we're eliminating service.

19 I advocate that the staff look at the total
20 agency. VTA has a light rail system, yet we are compared
21 to other agencies that operate only buses.

22 As you look at this rule, please consider the
23 entire balance of the agency. We are quite proud of the
24 reductions we've made in all of our emissions - water,
25 electricity, solid waste. And please take that into

1 consideration. Look at the agency as a whole, not just
2 the type of bus that we operate.

3 I want to thank CARB staff. I also want to thank
4 CTA, who's been the referee to keep us together, to get us
5 to play nice. And we will not be underdone by the morning
6 staff.

7 I want to leave you with a Ralph Waldo Emerson
8 quote: "To live in the sunshine, to swim in the sea and
9 drink the wild air." I think we all can live by that.

10 Thank you very much.

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

13 Sorry. We have a question for the staff, not for
14 the witness. Okay.

15 BOARD MEMBER D'ADAMO: Just wondering if you
16 could put this into context, comparison of cost: Fuel
17 cell bus, hybrid bus, and just the standard EPA compliant.

18 MR. ACHELNIK: The cost -- Gerhard Achtnik with
19 the Air Resources Board. Sorry.

20 Since these are still demonstration buses still
21 in technology development, we did mention that the cost is
22 anywhere from -- I think it was three to six times
23 greater. So a standard diesel bus I believe is between
24 300,000 and 380,000. And then hybrid buses are around 500
25 and 600,000. And then these fuel cell buses are greater

1 than -- they're two million dollars, two and a quarter
2 million dollars. And then some of the other technologies
3 that were mentioned are around 1.2, \$1.5 million dollars.
4 Electric trolleys are around \$1 million.

5 BOARD MEMBER D'ADAMO: And then I think on, let's
6 see, slide 8 there's some information on -- well, actually
7 this is more based on an analysis of funding from various
8 agencies. But if we're looking at \$2 million now, what
9 was the initial costs when these fuel cell buses came on
10 line as demonstration projects? Just trying to get a
11 sense of how far they've come down and how quickly.

12 MR. ACHTELIK: The initial demonstration -- the
13 first phase of the costs were between three and a quarter
14 and three and a half million dollars. So we've reduced by
15 about a third.

16 BOARD MEMBER D'ADAMO: Over what period of time?

17 MR. ACHTELIK: Over -- it would be the second
18 generation. But I guess it would be four years -- yeah,
19 three to four years.

20 BOARD MEMBER D'ADAMO: Okay.

21 CHAIRPERSON NICHOLS: Okay. Mr. Peeples.

22 MR. PEEPLES: Chair Nichols, members of the
23 Board. My name is Chris Peeples. I'm an elected-at-large
24 director of the Alameda-Contra Costa Transit District, AC
25 Transit, with 1.4 million constituents.

1 I'm here today to tell you a little bit about our
2 history with this to support staff's recommendation and to
3 give both my own and our staff's enthusiastic support for
4 the advanced demonstration.

5 I have to say in my 48 years of involvement with
6 fuel cells, they've come a long way. I saw my first PEM
7 fuel cell in 1960 in my uncle's laboratory in Schenectady,
8 New York, at G.E. where he was an investigator on the
9 Gemini Fuel Cell Program for NASA.

10 In '99 we saw the Ballard P3 bus at a conference,
11 borrowed it for a week or so, drove it around, decided
12 that this was an interesting thing to look at.

13 After that, in 2000 we had the Mercedes ZBus for
14 awhile.

15 Our partner SunLine gave us an older 30-foot Thor
16 that had a 60 kilowatt UTC fuel cell in it. We drove that
17 for a couple of years. And that led us into our current
18 fleet of buses, which are integrated by an outside
19 integrator. But Gronvold bodies, UTC fuel cells, Siemens
20 drives. And those have made remarkable advances over the
21 three years we've had them, largely credited to UTC and
22 their constant work on it. They have a wonderful in-house
23 engineer that's at our place that's talking to Connecticut
24 three times a day. That it's made improvements in
25 reliability, improvements in durability.

1 Jaimie Levin, who will be speaking also for AC
2 Transit, will tell you some about the advanced
3 demonstration. That bus is running around on the roads
4 near the factory now. We should have it in September.
5 They've managed to cut about a third of the price and
6 three tons off the weight. That's in one generation.

7 I think this is a technology that can move along
8 quite well. I know that from the shop floor up, the
9 maintenance staff and everybody else are extremely proud
10 to be working on this project and extremely enthusiastic.

11 So my fellow board members were a little rocked
12 by Secretary Chu, but we're working on that.

13 (Laughter.)

14 CHAIRPERSON NICHOLS: We all are.

15 MR. PEEPLES: Yes.

16 Other than Jaimie, I'm probably the most
17 enthusiastic person in the room on fuel cells. But I
18 acknowledge that this is not something that's ready to go
19 tomorrow. Two point two million is pretty expensive for a
20 bus. Reliability isn't there, the durability isn't there.

21 So I agree completely with your staff's
22 recommendation. I disagree with my general manager,
23 because I do think you should put a date on it. I think
24 2014's the appropriate date. I think you need to be
25 prepared that that may push a little.

1 But I think with the 12-bus fleet in the Bay
2 Area, you will get an ample amount of data that will be
3 able to tell you down the road whether you really do want
4 to impose a purchase requirement on all the transit
5 agencies.

6 Thank you very much.

7 CHAIRPERSON NICHOLS: Thank you, sir.

8 Mr. Levin then. And the final witness is Glen
9 Tepke.

10 MR. LEVIN: Madam Chair, members of the Board and
11 staff. Jaimie Levin. I direct the Alternative Fuels
12 Policy Program for AC Transit. And I am the big advocate
13 for hydrogen fuel cells.

14 I don't think I have to tell this Board that we
15 have a carbon emissions problem, we have a carbon
16 dependency problem, and we have a challenge to become
17 sustainable. And that's the vision which has driven AC
18 Transit and our partners towards this new technology.

19 Granted, we're public transit agencies. We are
20 bleeding lots of blood right now from the cuts in our
21 budgets. But we have a future that depends on new
22 technology that can make us more sustainable. And that's
23 what drives us to continue what we feel has been very
24 successful to date. Not without challenges. We have
25 those to address and we are addressing them in this next

1 stage.

2 What makes us optimistic about this? Number 1,
3 we've -- it's already been mentioned. We have over
4 182,000 miles of service on our buses. We carried half a
5 million people -- over a half a million people. Who are
6 those people? From Title 6 Environmental Justice
7 neighborhoods. Urban transit -- it was already mentioned
8 that over 6,000 buses of large fleets operate through the
9 most densely populated areas on our planet. And the
10 impact of those buses through those neighborhoods on
11 frequent service, with respect to local criteria
12 pollutants, with respect to noise, with respect to the
13 overall environmental benefit within our communities is
14 significant. And if we can address it, which we believe,
15 with fuel cell technology, then that's the direction we
16 need to continue.

17 I might add - I don't think this has been raised.
18 But one of the biggest benefits that our public recognizes
19 with this technology is noise reduction. In fact, it's so
20 much of a reduction that we've gone out and we've
21 purchased Tibetan bells from a local shop and welded them
22 on to the front of the bus. And that's a benefit in favor
23 of what we're doing.

24 It's already been mentioned that reliability is
25 an issue. Our next generation buses, which we are very

1 excited about, Chris mentioned that we've reduced our
2 weight by over three tons, so that they're only 2,000
3 pounds heavier than our diesel fleet. Even with the
4 burden that we now have with the current fuel cell fleet,
5 which is 8,000 pounds heavier, we're realizing almost 70
6 percent improvement in fuel economy.

7 So now we're coming out with a vehicle that's
8 6,000 pounds lighter. And our key goal is to improve
9 reliability, to come back to this Board with the data that
10 your excellent staff, from Tom Cackette to Gerhard to Anna
11 to Craig -- we've been spending a considerable amount of
12 time sharing our experience.

13 We see ourselves as a center of excellence. And
14 clearly from a policy standpoint, this chicken and egg
15 phenomena, how do we bridge the cost gap? Through a
16 center of excellence and commitment to -- those of us who
17 have a developed knowledge base, who have the experience,
18 keep ramping up that effort. We're going from 3 to 12.
19 We see ourselves hopefully going from 12 to 50. And
20 that's how we're designing our stations.

21 And I know my time is out. There's a lot to say
22 here. But the other side of this equation is not just on
23 the vehicle side. It's on the fuel side. And our new
24 fuel stations, which, thanks to CARB, will have a solar
25 electrolysis component to drive our reductions down to

1 zero. And we will have a fast fuel component in order to
2 show that we can demonstrate like operating conditions
3 for -- that we experience with our diesel and CNG fleets.
4 And we'll show scalability to go from 6 and 12 buses up to
5 50 and 100.

6 And I apologize for --

7 CHAIRPERSON NICHOLS: Thank you.

8 MR. LEVIN: -- taking the extra time.

9 CHAIRPERSON NICHOLS: No, you did a -- if you had
10 taken a breath I would have cut you off.

11 (Laughter.)

12 MR. LEVIN: I have to live up to the reputation
13 of our vice president.

14 CHAIRPERSON NICHOLS: We have a question here?

15 BOARD MEMBER D'ADAMO: Briefly. What --

16 (Laughter.)

17 BOARD MEMBER D'ADAMO: What improvements can be
18 made on reliability?

19 MR. LEVIN: Well, our target is -- and I think
20 this was mentioned with staff. We measure it two ways.
21 One is availability for pullout in the morning. We live
22 by the fact that when we have an a.m. pullout, any transit
23 agency, we have to meet scheduled service. You as a
24 passenger will not be a happy camper if -- whether it's a
25 fuel cell bus or a diesel bus has to wait or misses your

1 trip to work.

2 So availability is number one. Standard for the
3 diesel industry or for any regular transit industry is 85
4 percent availability. Our numbers have been climbing.

5 Our biggest problem has not been the fuel cell
6 reliability; it's been the battery reliability. That's
7 where our real problem is. Our new buses are going to
8 feature a U.S. made EnerDel lithium ion battery. And our
9 current testing is really quite exciting. The proof in
10 the pudding of course is not what, one or two, three weeks
11 of testing or one year of operation. But it's multiyear
12 of operation.

13 The second measure for reliability is what we
14 call "miles between road calls." And you could see from
15 staff's report and from the -- and they get their data
16 from our NREL studies. We're very involved in data
17 collection so we can be credible. But it is a
18 considerable gap except for the fuel cell. It's close to
19 almost approaching 8,000 miles between road calls,
20 compared to our diesel fleet propulsion miles between road
21 calls of somewhere between 10 and 11,000.

22 So those are our objectives in this next stage.
23 I think we're at the end of the rope here. There's only
24 so much money we can get out of the state and out of our
25 funding parties unless we show evidence that there is

1 progress and potential with this. So we are really
2 looking as our primary goal to bring that reliability very
3 close to what our standard fleet requires.

4 And I know that was long answer, but...

5 CHAIRPERSON NICHOLS: Okay. Thank you.

6 Finally, Mr. Tepke.

7 MR. TEPKE: Thank you, and good afternoon. I'm
8 Glen Tepke. I'm the Transit Capital Priorities Manager
9 with the Metropolitan Transportation Commission in
10 Oakland. MTC is the transportation planning,
11 coordinating, and financing agency for the nine-county Bay
12 Area. And we provide most of the funding that the Bay
13 Area operators use to purchase buses. And that includes
14 the 12 buses that are being procured for the advanced
15 demonstration project.

16 So thank you for the opportunity to comment on
17 the ZBus regulation.

18 MTC strongly supports the goals of the regulation
19 to reduce emissions, including greenhouse gases, and to
20 help the State meet its climate change goals.

21 Among other things, we've demonstrated that
22 support by providing \$26 million of the region's federal
23 funds to support the advanced demonstration project.

24 MTC also supports the staff recommendation to
25 amend the regulation to defer the purchase requirement and

1 to establish performance measures that would serve as
2 triggers for future implementation of the requirement.

3 The proposal to defer the purchase requirement
4 recognizes the reality that the ZEBs are still too costly
5 to implement at a large scale, and especially at a time
6 when transit budgets are under enormous stress due to the
7 economic downturn and state budget cuts.

8 In the Bay Area, the decline in sales tax revenue
9 and the complete elimination of state transit assistance
10 is going to translate into about a 10 percent reduction in
11 operating funds for the transit agencies. And as a
12 result, most of our agencies are either cutting service or
13 increasing fares.

14 And then on the capital side of the budget, in
15 our transportation plan we are projecting a \$17 billion
16 shortfall in order to meet our transit capital replacement
17 and rehab needs over the next 25 years.

18 And in that context, the 26 million that I
19 mentioned that we have provided for the advanced
20 demonstration project are funds that otherwise would have
21 been available to meet other transit capital needs. These
22 are sort of general purpose funds. And that would also be
23 true if the purchase requirement were to be implemented.

24 So implementing the requirement in this
25 environment would place additional hardship on the transit

1 operators at a time when we really should be supporting
2 transit as part of the solution to climate change and
3 congestion.

4 So as the other speakers have said, deferring the
5 purchase requirement would give us time to develop the
6 data that we need to assess the durability and
7 reliability. It would also give us time to -- for the
8 operators to implement the fueling and maintenance
9 facilities required. And as we're learning in the
10 demonstration projects, that's one of the most challenging
11 aspects of implementing hydrogen.

12 We support the concept of the performance
13 thresholds and we look forward to working with your staff
14 to revisit and revise the measures that were developed in
15 2006.

16 And I also want to thank your staff for all of
17 the collaborative work that they've done to implement this
18 project.

19 Thank you.

20 CHAIRPERSON NICHOLS: Thank you very much.

21 That concludes the list of witnesses.

22 Do you have any closing -- I think it does.

23 Yes.

24 Okay. Closing remarks.

25 Mr. Goldstene.

1 EXECUTIVE OFFICER GOLDSTONE: Well, I'm going to
2 ask Mr. Cackette to make a few closing remarks, that we
3 make sure the Board understands what we're doing this
4 afternoon.

5 CHAIRPERSON NICHOLS: Yes.

6 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: This
7 was a status report only. So even though we've talked
8 about regulatory changes, it's not our intention -- well,
9 we can't make any today, and it's not our intention to
10 come back to the Board to make any that you may endorse
11 until about a year from now. And during that time of
12 course we would work with the transit agencies and other
13 stakeholders to try to come up with exactly what
14 performance criteria should be, how long the delay in the
15 purchase requirement should be, what the mechanism is to
16 trigger the delay, things like that.

17 The one important point though is that transit
18 agencies are buying buses for delivery in 2011. And
19 2011 -- it's the delivery date that counts. So right now,
20 under the rule, they should be buying these fuel cell
21 buses. And for some of them that would be a very big
22 purchase. And we agree, as they agree, that the
23 technology's not quite ready for commercialization yet.
24 So what we're relying on is that your resolution, if you
25 agree with us, will say that it's the Board's intention to

1 delay this date. And we think that's enough in this
2 narrow community to relieve the obligation on them until
3 we can come back in the fall and actually make the
4 regulatory change.

5 So that's kind of what our game plan here is.
6 And if you -- what we're really asking for is your sort of
7 endorsement in the resolution of this approach. And if
8 that works, we'll be back to see you with the formal
9 regulatory proposals in the year.

10 CHAIRPERSON NICHOLS: Okay. Well, I suggest that
11 we don't need extensive discussion at this point about the
12 details of how this would work, because you're going to be
13 taking additional input from the industry and all others.

14 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Right.

15 CHAIRPERSON NICHOLS: But there may be a few
16 questions or comments.

17 Mr. Yeager.

18 BOARD MEMBER YEAGER: Yes, thank you.

19 I do have the pleasure of serving on the
20 Metropolitan Transportation Commission and also on the VTA
21 Board. So I understand a lot of the issues that were
22 being discussed here. And I certainly am in favor of
23 delaying the date.

24 And also looking at more of what we're talking
25 about as far as expanding the ZBus goals to include

1 greenhouse gas reductions. And hopefully we can -- maybe
2 you can sort of flush that out a little bit more for me
3 and sort of where we're headed.

4 I think -- as we've heard, you know, we have real
5 partners here with our transit agencies. I mean the whole
6 idea is to get people out of the automobiles and on to the
7 buses. And we've got to make sure that buses are there to
8 be running and that they are reliable.

9 And I know a lot of agencies are trying a variety
10 of other things. I mean certainly you're now purchasing
11 the cleaner diesel buses with the EPA standards. And I
12 was wondering how we're calculating that into their
13 overall reductions.

14 And some agencies, as we have in the VTA, they do
15 have electric trolleys as well as buses. And so as our
16 taxpayers have been willing to increase their sales tax to
17 go into trolley buses, how are they then also sort of
18 being considered? Because, again, these are people who
19 are really trying as hard as they can. They understand
20 the impact. They want to get people into the buses. And
21 I think whatever we can do to sort of help them and give
22 them incentives will help all of us. And as we continue
23 to have some of the issues that continue with the fuel
24 cells, of making sure that we're not discouraging them to
25 try other ways to reduce greenhouse gases.

1 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Let me
2 answer the last one, which is about the trolley buses --
3 the electric trolley buses. The regulation considered
4 those as being zero emission buses. And, for example,
5 Muni I think has essentially no obligation under this rule
6 because they buy and operate a large number of electric
7 buses.

8 And to the extent that battery buses come on
9 board and can serve some -- probably not all but some of
10 the transit needs, those count too. So that was
11 envisioned originally.

12 BOARD MEMBER YEAGER: I should say, but there's
13 still a problem if you're a fleet of over 200 and the
14 requirement, depending on what happens here, is still 15
15 percent of that, that if you haven't reduced that and all
16 you've done is expand your trolleys, you aren't really
17 getting credit for that. You just aren't sort of
18 expanding your bus fleet. Although hopefully you might be
19 doing that as well.

20 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Well,
21 if you bought ten -- you know, ten new trolleys and that's
22 all you bought, that would be ten ZEB buses you purchased,
23 so you would far exceed the 15 percent requirement.
24 That's why Muni doesn't have as much stake in this,
25 because they're already electric.

1 BOARD MEMBER YEAGER: Okay. So with VTA, as we
2 bring down BART to San Jose, that would also then be
3 included?

4 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yeah.
5 It would count, right. And so if they bought 15 percent,
6 I guess, new trolleys compared to 85 percent diesels, that
7 would put them into compliance too.

8 But going back to the original question. When
9 this was adopted, it was adopted as part of trying to get
10 the smog emissions from public transit towards zero, being
11 that transit is often challenged and I think steps up due
12 to the fact that they should be a leader in environmental
13 control for transportation.

14 I think we've, you know, pretty much achieved
15 much of that goal now. I mean we have -- diesel buses,
16 like you mentioned, are 90, 95 percent cleaner than they
17 used to be for both NOx and PM, at least starting in 2010
18 they will be. Oh, I think they are now actually.

19 And they've met those tough standards ahead of
20 the truck, for example, again showing the leadership.

21 But as we look at the shift towards emphasis on
22 climate change, just like we've done for cars, we've got,
23 you know, these very low emission cars out there now. And
24 what we're doing is we're starting to add on goals and
25 requirements for greenhouse gases from cars as well. And

1 we did that for trucks in -- at the end of last year, with
2 all the farings and things like that.

3 So transit I think has to be -- is a sector that
4 has to look at how do they get their greenhouse gas
5 emissions down from where it is today.

6 And obviously another diesel bus replacing one
7 that's already there, while it's cleaner from the smog
8 standpoint, probably won't reduce greenhouse gases.

9 Natural gas burned the way it is today, in a very
10 clean mode from a smog standpoint, gets you maybe 20
11 percent reduction in greenhouse gases.

12 And then the goal for cars, for trucks, and for
13 most other sectors is 80 percent.

14 So we've got to look at for this sector a way of
15 getting their greenhouse -- start getting their greenhouse
16 gases on a path that could ultimately achieve, you know,
17 something like an 80 percent reduction. And to do that,
18 it's essential that we have technology that has less
19 carbon coming out the tailpipe. But there's an advantage
20 with transit in that they could do other things, which
21 they do very well, which is, you know, encourage to get
22 more people out of their cars and on to a transit, provide
23 alternative means of transportation.

24 And then other technologies, like you said,
25 they're spending a lot of money in many places on light

1 rail. And that should count in here and there should be
2 incentives. You know, the rule ought to act as a positive
3 for us to try to see transit take a bigger role in the
4 greenhouse gas reduction program, which is, you know, now
5 quite tied into SB 375 in terms of better land-use
6 planning and how people are mobile within the community.

7 So I think that's what we tried to capture in
8 this greenhouse gas goal. We're still going to have to
9 push technology because we can't -- too much carbon coming
10 out buses. But we -- if we could do that, we need to also
11 try to figure out how it can benefit our transfer from
12 just being car people and driving around 1.2 people in a
13 car to using greater transit.

14 BOARD MEMBER YEAGER: Just my last point. I know
15 that on the performance metrics that was outlined maybe
16 there's also a need to include something about with price.
17 And the question to -- Ms. D'Adamo's question about
18 price. I mean, you know, we've got to get as many buses
19 on the road, you know, the clean diesel buses on that road
20 that we can. And so I would hope that that would be a
21 consideration as well.

22 CHAIRPERSON NICHOLS: Okay. Supervisor Roberts,
23 you had a question?

24 BOARD MEMBER ROBERTS: Yeah, I do have. First of
25 all, I need to be very careful what I say because I don't

1 want a starring role in the movie "Who killed the electric
2 bus?" as I have in an earlier movie --

3 CHAIRPERSON NICHOLS: I'd be more than happy to
4 defer to you on that.

5 (Laughter.)

6 BOARD MEMBER ROBERTS: And I -- like Supervisor
7 Yeager, I have some involvement with transit. I sit on
8 the Board of Directors of the Metropolitan Transit System
9 here as well as on the Transportation Committee for
10 SANDAG. So we're working on AB 32 and SB 375 in all of
11 these things. And we're trying to figure out what they
12 all mean.

13 I guess I have a couple of questions. In our
14 efforts, one of the things we're working on is a major
15 expansion of our light rail system, which already
16 proportionately is one of the -- probably one of the
17 longest most anywhere in the State. The next expansion of
18 that -- and we'll have the environmental work done
19 probably by the beginning of this coming year -- it's
20 going to be about a billion dollar expansion. Now, that's
21 an all-electric system.

22 Like all the transit agencies that have been told
23 by the State, "We want you to do a better job. And to
24 help you we're going to cut all your funding," we're
25 struggling with a lot of issues. Fortunately we have

1 because of voter initiatives about half the money for that
2 line. And we're hopeful that the other half will come
3 from the federal government. And to this day, meetings
4 that I've had in Washington with them would indicate that
5 that's highly probable.

6 But how do you -- how -- you know, what I've seen
7 so far is a chart that says if you've got so many buses,
8 you're going to have to have so many experiments. Is
9 there a -- are you taking into consideration maybe that
10 systems like this are going to be spending a lot of money
11 on a lot of electrical -- other electrical stuff that in
12 the long run's going to claim more passengers, more
13 effective? I mean every index we have, it will outperform
14 any of this stuff that we've seen, I can tell you.

15 You know, we heard a lot of people testify about
16 all the wisdom of these fuel cells. And we know the
17 range, we know performance, we know cost, we know
18 reliability is all questionable at this point.

19 So how do we -- how do you look at a transit
20 agency and evaluate what are the efforts they're making
21 that really help you in the greenhouse gases but aren't
22 necessarily related to buses?

23 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Well,
24 that's exactly what we want to do in that final
25 recommendation, which is come up with a greenhouse gas

1 goal that incorporates these features. So --

2 BOARD MEMBER ROBERTS: And that's the performance
3 part of it that you're looking at?

4 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Well,
5 no, beyond that. Actually come up with other incentives
6 that would sort of level the playing field on a greenhouse
7 gas basis. So, for example, we think that any transit
8 system will have buses. You know, there's not going to be
9 completely light rail.

10 BOARD MEMBER ROBERTS: There's no question about
11 that.

12 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yeah.
13 So those buses need to be making some progress towards
14 lowering their greenhouse gas emissions. If we don't,
15 we'll never get any kind of significant reduction from
16 that sector.

17 But if you look at -- you know, the way we have
18 it now is, okay, you have to buy a bus. But what if I do
19 a light rail? Well, we'd like to have some kind of system
20 that says if you do light rail, that either you could get
21 credit or get GHG reduction credit for the fact that light
22 rail is more efficient than the bus perhaps, that it
23 carries more people, that it offsets -- it grows
24 ridership. And all of those things are good for
25 greenhouse gas reduction. So by putting -- perhaps coming

1 up with something like a cap or a declining cap on transit
2 emissions, you could do that. But you would build in the
3 growth factor. So that when they do good, which is get
4 people out of their cars, we would take credit for that
5 and that would offset any need to do technology changes or
6 things like that. And so there'd be a system-wide look at
7 transit, which I think could end up being, you know,
8 helping transit look more and more like it's providing the
9 societal benefits that it needs to do, not just getting
10 people out of their cars and to work, but also solving the
11 greenhouse gas problem.

12 BOARD MEMBER ROBERTS: Okay. Well, that -- you
13 know, I'm going to be interested in that.

14 You know, I heard a comment that, you know, we're
15 writing out the -- writing off the internal combustion
16 engine. And had we had the time yesterday, we would have
17 looked at all the companies here and the stuff that's
18 going on in San Diego with respect to development of algae
19 fuels and other things. And I wouldn't write off the
20 internal combustion engine so quick, because they could
21 have a negative impact -- a negative footprint with
22 respect to greenhouse gases and other things.

23 There's so many things going on right now that
24 are going to affect us. I don't want to see us stack the
25 deck in any way, shape, or form.

1 I made a prediction on who killed the electrical
2 car, that hydrogen was the fuel of the future. I'm not as
3 convinced of that today as I was ten years ago when we
4 went through this exercise with respect to cars. But I
5 think we have to -- if we keep in sight what we want, we
6 want to lower emissions, we want to lower greenhouse
7 gases, we want to have options that are cost effective as
8 well as provide the performance that we need, you know,
9 we'll do a far better job in the long run. It might not
10 be that we're for such a sexy solution as hydrogen fuel
11 cell.

12 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: I think
13 the one thing that some of these technologies have as well
14 as the low emissions that will be essential for the future
15 is that they're efficient. Fuel cells are very efficient.
16 Electricity, electric motors for light rail are very, very
17 efficient.

18 BOARD MEMBER ROBERTS: Cost efficient as well as
19 performance efficient.

20 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: They
21 have to be cost.

22 BOARD MEMBER ROBERTS: Okay. Cost efficient.

23 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: But
24 even when we look to algae and these other biofuel-type
25 things, there's going to be a lot of demand for them.

1 There's going to be probably some limited supply. And if
2 you put them in a normal combustion engine, you've got to
3 put a lot more in because those engines aren't as
4 efficient.

5 So the future for low carbon probably is some
6 combination of these low carbon fuels, whether it be
7 electricity or algae diesel or whatever, but also
8 efficient use of those fuels. And that combination's I
9 think what most people believe - and Dan can certainly --
10 or Professor Sperling can certainly say that because he's
11 written books on it. But that's kind of the formula that
12 most people see. So I think -- that's why we wanted to
13 pursue both paths.

14 BOARD MEMBER ROBERTS: Well, and as you heard
15 from Paul Jablonski, we have a -- I think maybe the only
16 one in the country -- the CNG hybrid bus. And we're
17 testing that and running that --

18 CHAIRPERSON NICHOLS: There's still -- we haven't
19 heard the last from technology. But we're about to close
20 this item off, because some of us --

21 (Laughter.)

22 BOARD MEMBER ROBERTS: Okay. I will be quiet for
23 the rest of the afternoon.

24 CHAIRPERSON NICHOLS: -- some of us have
25 airplanes to catch who don't get to live here in San

1 Diego.

2 But that was a helpful conversation. And I would
3 like to draw one conclusion from it, which is that, while
4 I tend to be persuaded by Mr. Cackette's line of thinking
5 about what the future is likely to look like, I'm also
6 very mindful of the point that you just made, Supervisor
7 Roberts, about the need to have performance-based
8 approaches to these issues and to keep as much as possible
9 to pushing on what we need to achieve and let technology
10 guide us at the end of the day as to where we're actually
11 going to get.

12 So I think those two things have to be kept both
13 in mind at the same time.

14 Hearing no objection, I would like to assume that
15 the Board is giving general direction along the lines of
16 what the staff has indicated here, that is, we all I think
17 are aware of the fact that it is not going to be possible
18 to actually meet the deadlines that were originally in
19 this -- planned for in the rule, that the staff will need
20 to come back with some amendments. And we'd like you to
21 keep in mind the other considerations that you've raised.

22 But I see people looking at me like they're
23 really worried that I'm about to do something illegal.

24 EXECUTIVE OFFICER GOLDSTENE: There's a
25 resolution to --

1 CHAIRPERSON NICHOLS: Yes, I know.

2 EXECUTIVE OFFICER GOLDSTENE: Oh, okay.

3 CHAIRPERSON NICHOLS: We have to actually act on
4 the resolution, I know, I know.

5 And before we act on the resolution, Mr. Jenne,
6 is there anything else we need to do?

7 ASSISTANT CHIEF COUNSEL JENNE: No, that's what I
8 was going to mention.

9 (Laughter.)

10 CHAIRPERSON NICHOLS: Okay, good. I know you
11 were worried that we weren't actually going to act on the
12 resolution.

13 BOARD MEMBER ROBERTS: I move approval of the
14 resolution.

15 BOARD MEMBER SPERLING: Second.

16 CHAIRPERSON NICHOLS: You're moving the
17 resolution. We have for that a second.

18 Would all please signify by saying aye.

19 (Ayes.)

20 CHAIRPERSON NICHOLS: Opposed?

21 Okay.

22 There, the resolution is passed. Thank you.

23 Thank you for keeping us on the straight and
24 narrow path.

25 Okay. We do have a comment period, and we have

1 quite a number of people, unusually, who've signed up for
2 this. And I think some of them are part of an organized
3 group, but I don't think all of them are.

4 So my assumption is that Mr. Jefferds is not. Is
5 that correct, Bill, that you're -- where are you, Bill
6 Jefferds?

7 There you are.

8 You're first on the list. You're on your own; is
9 that correct?

10 DR. JEFFERDS: Right.

11 CHAIRPERSON NICHOLS: Yes. Well, why don't you
12 come up first then and give us your three minutes and then
13 we'll hear from the others.

14 DR. JEFFERDS: Thank you, Madam Chair. I'm Bill
15 Jefferds, the Executive Director for the Southwest Defense
16 Alliance.

17 Our chairman right now is John McQuiston, who is
18 the Chairman of the Board of Kern County Supervisors.

19 We've been in existence ten years. Our missions
20 are to protect military range complexes in the southwest.
21 We are a 501(c) of six states that have banded together to
22 protect those military range complexes.

23 So we have a great deal of interest in the CARB
24 and those issues that may make some problems for us as we
25 go along. But we want to offer our services to work with

1 you as we come along with the issues that face that.

2 We also met with the Board of Supervisors, Mr.
3 Cox and Mr. Horn, looking at the possibility of them
4 joining the Southwest Defense Alliance.

5 We appreciate being here today. I was a school
6 superintendent for 19 years. It reminds me of old board
7 meetings.

8 So thank you.

9 (Laughter.)

10 CHAIRPERSON NICHOLS: The reason I sounded so
11 familiar when I called him is that I worked with General
12 Jefferds when he was the military liaison in the Davis
13 administration. And he did a super job of organizing a
14 military base retention and reuse effort that we had
15 underway in those days when they were going through a
16 round of base closure efforts, you know, one of the
17 periodic BRAC projects, helping the State agencies get to
18 know the military base commanders and their issues and
19 helping us to focus on what we needed to do to have an
20 effective program to help California not just get rolled
21 over in that process.

22 So it was a terrific job. I want to thank for
23 that. Good to see you again.

24 Okay. Now, am I correct that the rest of you are
25 more or less a part of a group?

1 MR. GUERRY: Yes.

2 CHAIRPERSON NICHOLS: Okay. Well, then you can
3 just organize yourselves. And I guess you each --

4 MR. GUERRY: Thank you. Good afternoon. My
5 name's Bill Guerry. I appreciate the opportunity to speak
6 with you late in the day. I'm an environmental lawyer
7 from Washington DC with the national law firm, Kelly Drye.

8 Today I'm testifying on behalf of the National
9 Marine Manufacturers, which represents over 1600 boat
10 builders and engine manufacturers. I will be followed by
11 representatives speaking for the lawn and garden industry,
12 followed by the furniture manufacturing industry, followed
13 by the California construction industry, and finally by
14 the California Motorcycle Dealers.

15 These five diverse associations would like to
16 work constructively with the ARB and the Executive Office
17 to evaluate and try to develop recommendations through a
18 consensus-based process on improvements to ARB's
19 enforcement policies. To that end, our coalition has
20 developed a position paper, which I shared -- I think you
21 have before you. That position paper is largely based on
22 the work product and careful report written by George
23 Lawrence.

24 And I'm sure, Chairman, you remember George
25 Lawrence. He has a very distinguished 30-year career. He

1 was head of EPA's Mobile Source Enforcement Division for
2 12 years. And George was the proud architect of a
3 comprehensive 50-page EPA penalty policy matrix. And as
4 George explains in his report, that's been a very
5 effective tool in helping U.S. EPA reach fair, transparent
6 settlements since there's a clear litmus through that
7 matrix under which parties can come to an agreement and
8 reach a fair settlement through a much more expedited
9 process. It used to take EPA a much longer period to
10 reach those settlements.

11 Working with George Lawrence, the affected
12 coalitions urge the ARB Board to direct the Executive
13 Office and staff to work closely with all the affected
14 stakeholders and create, we believe, a very needed
15 transparent penalty policy and process that achieves the
16 following goals that we believe all of us share:

17 First, we should distinguish between major versus
18 administrative minor violations that have no impact on the
19 environment and do not involve any avoided compliance
20 costs.

21 Second, we should distinguish between different
22 grades of innocence or culpability, taking into account
23 whether a party undertook reasonable prudent precautions.

24 Third, we should be targeting and focusing
25 California's limited enforcement and judicial resources on

1 gross emitting in unsafe products from deliberate bad
2 actors, often from China, that are unfairly hurting
3 consumers, air quality, and reputable manufacturers and
4 dealers in the marketplace.

5 Fourth, we would like to work with you to ensure
6 that CARB enforcement staff are fully complying with all
7 California laws and due process requirements, including
8 those under the Office of Administrative Law.

9 Finally, I'd just like to note that we believe
10 that the ARB Board and Executive Office has an obligation
11 to exert leadership role in this important policy issue.
12 And, again, we are dealing with generic policies, not with
13 individual cases which we understand are held and
14 addressed on a case-by-case basis.

15 Thank you.

16 CHAIRPERSON NICHOLS: Very good. Thank you.

17 MS. WILSON: Good afternoon, Chairman and
18 members of the Board. My name is Donna Wilson, and today
19 I'm appearing on behalf of OPEI, the Outdoor Power
20 Equipment Institute.

21 As its name suggests, OPEI represents numerous
22 manufacturers of outdoor power equipment, ranging from
23 chain saws to lawn mowers.

24 My comments today are directed toward ARB's
25 policy or, more precisely, its lack of policy with respect

1 to the setting of enforcement penalties.

2 My remarks will consist of three points:

3 First, what is exact issue we're dealing with
4 here? The precise issue is that unlike the EPA in other
5 states, ARB lacks a basic and transparent penalty policy
6 for its enforcement program.

7 Now why is this important? Without such a
8 policy, the process of setting a penalty is imbued with
9 unchecked subjectivity. Indeed, even similar categories
10 of violations can be treated differently under this
11 rubric. As a result, the penalties imposed are
12 inconsistent with California law and Section 205 of the
13 CAA, under our view.

14 Third, what relief is OPEI seeking from the
15 Board?

16 The relief we're seeking is that the ARB
17 establish a penalty policy that, among other things, a)
18 identifies and applies objective and transparent criteria
19 and b) imposes a range of penalties that are reflective of
20 the relative seriousness of the violations.

21 In sum, OPEI respectfully requests that the Board
22 consider and act on this issue to ensure the basic values
23 of due process in this regulatory body.

24 Thank you very much for the opportunity to speak
25 to you today.

1 CHAIRPERSON NICHOLS: Thank you.

2 MR. MILLER: Good afternoon, Chairman Nichols and
3 members of the Board. My name is Clayton Miller and I
4 represent CIAQC.

5 As you know, CIAQC is a coalition. It represents
6 thousands of construction equipment and users. We talked
7 a lot about that this morning.

8 These companies are generally small companies and
9 they don't typically have the resources and sophistication
10 to effectively engage with CARB with regard to enforcement
11 matters sort of at a legal level.

12 CIAQC generally agrees with the comments made by
13 OPEI and the marine manufacturers before me.

14 CIAQC as an organization is comprised of small
15 business end users of the regulated equipment. And for
16 that reason we think it's uniquely interested in
17 developing a robust and transparent administrative hearing
18 process that CARB already routinely uses, much as it does
19 under the heavy-duty diesel inspection program.

20 CIAQC is aware that CARB has the authority to
21 utilize this administrative penalty hearing process for
22 virtually all violations since the passage of Senate Bill
23 527 back in 2001. However, I guess its application
24 continues to be somewhat limited beyond that.

25 CIAQC members are very similar to the entities

1 and companies affected by the On-Road Inspection Program.
2 In fact, many CIAQC contractor companies have vehicles
3 that fall into that regulation.

4 But now in looking forward, there will be
5 thousands of companies subject to regulatory compliance
6 for the off-road/on-road portable equipment regulations.
7 And the provisions found therein I guess include the
8 idling limitation rules, reporting and in-use
9 requirements.

10 So what we want to recommend is that CARB offer
11 an administrative penalties hearing process for those
12 things moving forward. We think doing so would improve
13 efficiencies for limited agency staffs and private sector
14 staffs and limited resources, especially given the ongoing
15 budget crises and ever-increasing compliance regulations
16 moving forward.

17 Local air districts already utilize
18 administrative processes, and that could serve as an
19 example here.

20 So I wanted to thank you for the opportunity this
21 afternoon. And I appreciate the ability to give a
22 perspective and make the suggestion today.

23 Thank you.

24 CHAIRPERSON NICHOLS: Thank you.

25 MR. DUNLAP: Good afternoon. It's good to be

1 with you today.

2 I wanted to compliment Supervisor Roberts on the
3 nice house for having the meeting here in San Diego.

4 I'm John Dunlap and I'm representing the American
5 Home Furnishing Manufacturers' Alliance. The AHFA, as
6 some of you may recall, is the voice of the American
7 furniture industry and has been working closely with the
8 Board staff on the implementation of the formaldehyde
9 furniture regulation.

10 The association is particularly concerned about a
11 consistent predictable enforcement program that at present
12 is undefined despite some regulatory deadlines that are
13 emerging relative to compliance dates.

14 So they're adding their voice today to those
15 speaking in hopes of securing your awareness of the need
16 for this clear, consistent enforcement compliance
17 framework and requesting that a workgroup be formed and
18 established to discuss possible remedies. One of the
19 areas - and I think Chair Nichols will appreciate this -
20 that needs to be examined is about strict liability,
21 whether it should be blindly applied or should involve
22 some enforcement discretion. If discretion is allowed,
23 this could encourage manufacturers in their efforts to
24 undertake reasonable prudent precaution in making sure
25 they're in compliance.

1 I know, Chairman Nichols, given your experience
2 federally with U.S. EPA, you understand kind of the rub
3 and how important it is to have things work through a
4 consistent framework. It gives -- in my consulting
5 practice I spend a lot of time working to settle
6 enforcement cases. It's very difficult oftentimes to
7 predict what people are looking at, what their exposure
8 is. You heard earlier today a comment I think
9 Supervisor -- or not Supervisor -- Board Member Riordan
10 brought it up about the idea of people having
11 responsibility on the construction side about notifying
12 your staff within 30 days of the sale of the piece of
13 equipment. Well, that issue emerged because they were
14 concerned about having your enforcement staff go out and
15 enforce that small provision and use that as a basis for
16 an enforcement action.

17 Subsequent to your discussion, we talked to your
18 Executive Officer. He assured us that was not likely
19 going to be the outcome. But nonetheless there's an
20 opportunity for some framework discussions and development
21 of a framework that we believe will benefit not only the
22 compliance the Board seeks, but the assurance that the
23 industry, you know, has a level playing field if they're
24 confronted.

25 I might add that your Board deals with some very

1 thorny regulatory issues. And you in good conscience ask
2 your staff to strive to implement those regulations fairly
3 and consistently. And they -- I believe their motives are
4 pure. But how those regulations are applied, particularly
5 in the enforcement arena, give people great pause and some
6 concerns.

7 So, Madam Chair, I think the key takeaway just
8 from my few minutes with you is if there's a way for you
9 to get behind some kind of an effort to establish a work
10 group to work through some of these things. I think your
11 experience and hopefully Mr. Goldstene's commitment will
12 get us where we need to be.

13 CHAIRPERSON NICHOLS: Thank you.

14 Last.

15 MR. PALIWODA: Good afternoon, Madam Chair and
16 Board members. I'm the Executive Director of the
17 California Motorcycle Dealers Association, John Paliwoda.
18 It's a 38-year-old nonprofit trade association for
19 California motorcycle dealers.

20 We're the voice for over 350 motorcycle dealers
21 here -- franchise motorcycle dealers here in California.
22 And a majority of them are CMDA members.

23 Because of the nature of our products that can
24 affect California's air quality, we seek to work closely
25 and cooperatively as we have tried to in the past with the

1 ARB.

2 However, the CMDA supports the letter from the
3 coalition that we belong to, of diverse associations
4 including OPEI, and MMA, and CIAQC.

5 We beseech the Board, we ask the Board to conduct
6 a systematic review of ARB's enforcement criteria and
7 procedures. And from the CMDA standpoint, enforcement
8 should not be concentrated and focused on innocent parties
9 who are often overwhelmed by the ARB's disproportionate
10 resources into agreeing to grossly unfair and often
11 undeserved settlements for what should be administrative
12 fines.

13 ARB should not seek to enforce regulations
14 retroactively before their effective date. ARB must
15 follow the California Administrative Procedure Act and
16 receive Office of Administrative Law approval before
17 prospectively applying regulations.

18 Senior enforcement counsel plans to pursue
19 enforcement actions against hundreds of dealers and to
20 rescind green sticker registrations from owners that allow
21 for off-highway recreational use on public lands for
22 vehicles that were sold in 2006 and early 2007. This was
23 a year before the effective date of amendments to the
24 off-highway recreational vehicle rule were approved by the
25 Office of Administrative Law, which was August 15th, 2007.

1 ARB enforcement is proceeding to file costly and
2 inefficient enforcement actions against hundreds of
3 motorcycle dealers that innocently sold products before
4 the effective date of this regulation.

5 To prevent these unwarranted enforcement actions,
6 regrettably the CMDA is filing a petition with the Office
7 of Administrative Law. This petition requests that the
8 Office of Administrative Law declare that the retroactive
9 enforcement of the off-road recreational vehicle rule
10 amounts to an underground regulation in violation of the
11 Administrative Procedure Act.

12 In closing, the CMDA did not ask for this turn of
13 events. We look forward to constructively working with
14 the Board, with the staff in trying to resolve these
15 issues. Please give your most serious attention. Too
16 many manufacturers, trade associations, dealers and
17 retailers continue to be the targets for these heavy
18 sanctions justified by staff opinions, advisories, and
19 interpretations that were not approved as regulations by
20 the Office of Administrative Law.

21 Thank you very much.

22 CHAIRPERSON NICHOLS: Thank you.

23 Obvious we cannot take any official Board action
24 on this item.

25 Actually I want to say, first of all, I really

1 appreciate the fact that you're all here. And it may be
2 just one of those wonderful alignments of the stars. But
3 I have been having conversations with our still relatively
4 new Chief Counsel, Ellen Peter, who's not here today
5 because she's addressing the 9th Circuit Judicial
6 Conference in my stead about the desirability of adopting
7 some more formalized procedures for handling enforcement
8 cases.

9 So actually your timing is excellent. And it is
10 something that I think the Board should be looking to.
11 This is not a quick and easy process, I am sure you
12 realize. And there are differences in different types of
13 regulations and there are differences -- there may well be
14 differences in specific instances. For example, the case
15 that Mr. Paliwoda is talking about, you know, may or may
16 not be one that would be addressed by this kind of a
17 discussion.

18 But in general, to have a discussion about
19 regularizing and formalizing penalty structures and
20 procedures and, as much as possible, clarifying when we
21 take different paths in the enforcement I think would work
22 to all of our benefit.

23 The fact is, I can't say how strongly I
24 believe -- I cannot say this too strongly. An effective
25 enforcement program is at the heart of the work of this

1 agency. If we are not enforcing our regulations in a way
2 that is seen by the public to be effective and fair, we
3 might as well not be passing all the regulations that this
4 Board works so hard to adopt. So it is a really critical
5 piece of our agency's operation.

6 But rather than sort of go through, you know,
7 responses to the comments that were made here, I think the
8 best thing to do would be to simply ask Mr. Goldstene to
9 reflect on these comments and come up with a structure --
10 I know the word "task force" was used, "working group" I
11 think was used. I again appreciate the fact that this
12 particular group of people has come to us, but there may
13 well be others that should also be included in such a
14 discussion.

15 So I think we should leave it to you to develop a
16 response and let us know.

17 But we really do appreciate your all taking the
18 time to come here and to bring this to our attention.

19 Thank you.

20 EXECUTIVE OFFICER GOLDSTENE: We will.

21 CHAIRPERSON NICHOLS: Okay. We will.

22 Excellent.

23 Thank you.

24 Are there any further comments?

25 No.

1 All right. Hearing none, then I believe we will
2 be adjourned.

3 Thanks, everybody.

4 (Thereupon the California Air Resources
5 Board meeting recessed at 3:02 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, 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 California Air Resources Board meeting was
7 reported in shorthand by me, James F. Peters, a Certified
8 Shorthand Reporter of the State of California,

9 That the said proceedings was taken before me, in
10 shorthand writing, and was thereafter transcribed, under
11 my direction, by computer-assisted transcription;

12 I further certify that I am not of counsel or
13 attorney for any of the parties to said meeting nor in any
14 way interested in the outcome of said meeting.

15 IN WITNESS WHEREOF, I have hereunto set my hand
16 this 6th day of August, 2009.

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JAMES F. PETERS, CSR, RPR

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