

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
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APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John Balmes

Ms. Sandra Berg

Ms. Dorene D'Adamo

Mr. Hector De La Torre

Mrs. Barbara Riordan

Professor Daniel Sperling

Supervisor Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Richard Corey, Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Ms. Lynn Terry, Deputy Executive Officer

Mr. Matthew Botill, Climate Change Planning Section, SSD

Ms. Leisa Bush, Air Pollution Specialist, Compliance and Outreach Section, MSCD

Mr. Femi Olaluwoye, Technical Development Section, PTSD

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Rosario Aguilar, Las Margaritas, Chiapas

Ms. Susie Berlin, NCPA & MSR

Ms. Michelle Chan, Friends of the Earth

Mr. Jeff Conant, Friends of the Earth

Mr. John Costantino, Hydrogen Energy

Mr. Roman Czebiniak, Greenpeace

Mr. Russell Ellis

Mr. Terry Ford, Air Pollution Specialist, ARB-BAR Liaison,
EO

Ms. Susan Frank, CA Business Alliance for a Green Economy

Mr. Pablo Garza, The Nature Conservancy

Mr. Frank Harris, Southern California Edison

Mr. Paul Hedglin, Engineer, Bureau of Automotive Repair

Mr. Mark Krausse, PG&E

Mr. John Larrea, CA League of Food Processors

Mr. Bill Magavern, Coalition for Clean Air

Ms. Lily Mitchell, Hanna & Morton, LLP

Ms. Erica Morehouse, Environmental Defense Fund

Mr. Jose Carmelio Alberto Nunes, Federation of Huni Kui
people

Ms. Sofia Parino, CRPE

Ms. Cindy Parsons, LADWP

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Emma Payne, British Consulate

Mr. Norman Plotkin, CAWA/AAIA

Ms. Nicole Quinonez, CSPA

Ms. Tamera Rasberry, Sempra Energy

Ms. Dorothy Rothrock, CMTA

Mr. Chris Shimota, CTA

Ms. Cassandra Smithies

Ms. Karen Snyder

Ms. Stefanie Tanenhaus, NRDC

Ms. MariRose Taruc, APEN

Mr. Tim Tutt, SMUD

Ms. Gloria Ushigua, Association of Zapara Women

Mr. John Wallauch, Chief, Bureau of Automotive Repair

Ms. Amy Vanderwarker, CA EJ Alliance

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PROCEEDINGS

1
2 CHAIRPERSON NICHOLS: Good morning, ladies and
3 gentlemen. We're going to get started.

4 This is the October 18th, 2012, meeting of the
5 Air Resources Board.

6 And we will begin now that we have a quorum with
7 the Pledge of Allegiance to the Flag.

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

10 CHAIRPERSON NICHOLS: Thank you.

11 The clerk will please call the roll.

12 BOARD CLERK ANDREONI: Dr. Balmes?

13 Ms. Berg?

14 BOARD MEMBER BERG: Here.

15 BOARD CLERK ANDREONI: Ms. D'Adamo?

16 BOARD MEMBER D'ADAMO: Here.

17 BOARD CLERK ANDREONI: Mr. De La Torre?

18 BOARD MEMBER DE LA TORRE: Here.

19 BOARD CLERK ANDREONI: Mayor Loveridge?

20 Mrs. Riordan?

21 BOARD MEMBER RIORDAN: Here.

22 BOARD CLERK ANDREONI: Supervisor Roberts?

23 Dr. Sherriffs?

24 Professor Sperling?

25 BOARD MEMBER SPERLING: Here.

1 BOARD CLERK ANDREONI: Supervisor Yeager?

2 BOARD MEMBER YEAGER: Here.

3 BOARD CLERK ANDREONI: And Chairman Nichols?

4 CHAIRPERSON NICHOLS: Here.

5 BOARD CLERK ANDREONI: Madam Chair, we have a
6 quorum.

7 CHAIRPERSON NICHOLS: Thank you.

8 A couple of announcements. Anyone who wishes to
9 testify and did not sign up on-line should fill out a
10 request-to-speak card. They're available in the lobby.
11 And we appreciate it if you turn it in as early as
12 possible. Even if you think you might not testify, it's
13 easier for us to organize if we know in advance how many
14 people might be planning to speak on a particular item.

15 If you did sign up on-line, you don't have to
16 request another speaking card. But you do have to check
17 in with the clerk just so she knows that you're here.

18 We will be imposing a three-minute time limit as
19 usual. And we appreciate it if you just state your name
20 when you come up to the podium and put your testimony in
21 your own words rather than reading it, because we will
22 have a written copy of it as well.

23 There are emergency exits in the rear of the room
24 and on either side of the podium. In the event that we
25 get a signal for a fire drill, we would leave the

1 building -- or actual fire, of course -- leave the
2 building by the stairs and go down and gather in the park
3 across the street.

4 But in fact we are having a drill today of a
5 different kind. The Air Resources Board along with all of
6 Cal/EPA is participating in the Great California
7 Shake-out, which is taking place at exactly 10:18 this
8 morning. This drill is one in which everyone is supposed
9 to stay in place and drop, cover and hold on.

10 The announcement will come over the building's
11 speaker system, and the drill is supposed to last about
12 two minutes. So when you hear the alert, what you should
13 do is to -- if you are at a desk, those of you who are at
14 desks, try to get under it. Those of us who have a table
15 here could do that. Or if you're in the auditorium and
16 you're not in the aisle, you can just put your head down
17 and put your arms over your head, staying in the place
18 where you are. And don't go anywhere until the shaking is
19 over, which is of course not really shaking, we hope. But
20 the idea is that we're all supposed to be practicing doing
21 this. So this is a big statewide event.

22 There also are fliers called "Recommended
23 Earthquake Safety Actions," that tell you how to protect
24 yourself during an earthquake, available in the tables
25 that are outside in the lobby there so that you can get

1 some more information.

2 We appreciate everybody's cooperation in this
3 event. And it shouldn't disrupt our meeting by more than
4 a few minutes. So I think it's something we can do.

5 Okay. The first item on our agenda this morning
6 is a consent item on Approval of the 2012 PM_{2.5} Emissions
7 Inventory for the Chico Planning Area.

8 And if there's not anybody who wants to testify
9 or any reason to take it off of consent, we'll just move
10 it as a consent item then.

11 BOARD MEMBER RIORDAN: Madam Chair, I would move
12 then the item, the resolution I think is 12-31, for
13 approval.

14 CHAIRPERSON NICHOLS: Yes. Okay.

15 Any --

16 BOARD MEMBER BALMES: I'll second.

17 CHAIRPERSON NICHOLS: Good. Thank you.

18 All in favor say aye.

19 (Ayes.)

20 CHAIRPERSON NICHOLS: Any noes?

21 Great. It is adopted.

22 Okay. Next we will turn to proposed amendments
23 to a California consumer products regulation pertaining to
24 automotive windshield washer fluid products.

25 And at this time I will call on Mr. Goldstene to

1 introduce the item.

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

4 ARB regulates the volatile organic compounds, or
5 VOCs, in automotive windshield washer fluids to reduce
6 smog-forming pollutants. In regions of the state that
7 routinely experience freezing temperatures, these products
8 are allowed to contain a higher VOC content to prevent the
9 fluid from freezing. ARB's current regulation
10 specifically identifies these areas.

11 As the rule has been implemented, we found a few
12 additional mountainous areas that should have been
13 included. The proposed amendments would add these areas
14 to the regulation so that higher VOC content products
15 could be sold there. These changes will ensure that
16 products suitable for winter driving are available in all
17 the areas that need them.

18 I'll now ask Mr. Femi Olaluwoye of our Planning
19 and Technical Support Division to begin the presentation.

20 (Thereupon an overhead presentation was
21 presented as follows.)

22 MR. OLALUWOYE: Thank you, Mr. Goldstene.

23 Chairman Nichols and members of the Board. Today
24 we are proposing for your consideration amendments to the
25 California Consumer Products Regulation pertaining to

1 automotive windshield washer fluid products.

2 --o0o--

3 MR. OLALUWOYE: My presentation will follow this
4 outline. First, some background.

5 --o0o--

6 MR. OLALUWOYE: Automotive windshield washer
7 fluids are products designed or labeled for use in motor
8 vehicle windshield washer systems as an antifreeze or for
9 cleaning the windshield. These products were first
10 regulated when the consumer products regulation was
11 initially adopted in 1990, and VOC limits became effective
12 in 1993.

13 --o0o--

14 MR. OLALUWOYE: The regulation established
15 different requirements based upon where the product is
16 sold. The two regions are termed "Type A areas" and "all
17 other areas."

18 Type A areas are the regions identified as
19 routinely experiencing freezing temperatures. In these
20 areas, a higher VOC content windshield washer is needed to
21 prevent the fluid from freezing.

22 As the program has been implemented, we have
23 found that there are additional areas where there is a
24 need for higher VOC products. We are here today to
25 address this need.

1 --o0o--

2 MR. OLALUWOYE: Windshield washer products are
3 sold as ready-to-use and concentrates. Concentrated
4 products can be sold anywhere in the state, but the
5 products must be labeled with clear instructions for
6 diluting them to either the specifications for Type A or
7 all other areas.

8 --o0o--

9 MR. OLALUWOYE: Here are the initial VOC
10 standards along with the standards that are in effect
11 today.

12 As shown, amendments have lowered the VOC
13 standards for Type A areas to 25 percent weight and to 1
14 percent weight VOC for non-Type A areas.

15 These standards provide an overall VOC emission
16 reduction of over 25 tons per day, most occurring from
17 products sold in non-Type A areas.

18 Next I'll describe why we believe amendments are
19 needed.

20 --o0o--

21 MR. OLALUWOYE: First of all, we have learned
22 that the current definition of Type A does not include a
23 few areas that routinely experience freezing temperatures
24 in the winter. This means that the premixed products
25 currently sold in these areas do not provide the needed

1 freeze protection.

2 We have also been told that use of air basin
3 names to describe Type A regions is not widely understood.

4 And, finally, stakeholders have indicated that it
5 is not clear that concentrated products can be diluted for
6 winter driving conditions regardless of where the product
7 is purchased.

8 We believe these amendments are needed to
9 alleviate potential hazardous driving conditions that
10 could occur from the fluid freezing in the reservoir or
11 when applied to the windshield.

12 Now, I will describe the proposed amendments.

13 --o0o--

14 MR. OLALUWOYE: To address the concerns I just
15 mentioned, staff is proposing to expand Type A areas by
16 adding the areas that are shown in blue on this slide. We
17 are also proposing to describe the new areas by ZIP codes
18 because they match the areas relatively well and are
19 readily understood.

20 The pink lines represent the ZIP codes proposed
21 to be added to Type A areas in our original regulatory
22 language. However, we are proposing to include an
23 additional ZIP code that was inadvertently dropped during
24 drafting of this language. The net effect of redefining
25 Type A areas would be to allow but not require premixed

1 products with up to 25 percent weight VOC to be offered
2 for sale in these areas.

3 --o0o--

4 MR. OLALUWOYE: In addition to expanding Type A
5 areas, we are proposing to redefine existing Type A areas
6 by using county names as the descriptive instead of air
7 basin.

8 Because Placer County spans three air basins and
9 only portions of Placer County are included in Type A
10 areas, we are proposing to describe the Type A portions of
11 Placer County by lifting the ZIP codes. These changes
12 would be reflected in the reorganized single definition.

13 We are also proposing to allow language on
14 concentrated product labels to include additional
15 instructions on the label advising consumers to dilute the
16 product to Type A specifications if they will be traveling
17 to areas where freezing temperatures are expected.

18 --o0o--

19 MR. OLALUWOYE: In developing the staff's
20 proposal, we held a public workshop on July 10th, 2012.
21 The workshop was webcast so stakeholders could participate
22 without traveling.

23 We also held conference calls with industry
24 associations representing manufacturers, wholesalers,
25 distributors, and retailers of automotive windshield

1 washer fluid products. Our proposal reflects some of
2 their comments.

3 --o0o--

4 MR. OLALUWOYE: Should manufacturers choose to
5 modify labels for their concentrated products, we estimate
6 that there would be a one-time cost of about \$165 to
7 redesign a product label. We do not expect other economic
8 impacts, because manufacturers are already selling
9 products at 25 weight percent VOC in current Type A areas.

10 We also note that the products currently sold in
11 the new Type A areas would continue to comply.

12 There will be no significant adverse impacts on
13 the environment. The proposed amendments, along with our
14 suggested modifications, would result in a slight loss of
15 emission benefits of 0.13 tons per day statewide.
16 However, overall consumer products emissions will continue
17 to decline because VOC reductions of over 6.7 tons per day
18 from a previous consumer products rulemaking will occur at
19 the end of the year.

20 --o0o--

21 MR. OLALUWOYE: In conclusion, we recommend that
22 the Board approve for adoption the proposed amendments to
23 the Consumer Products Regulation with staff's recommended
24 modification.

25 We'd be happy to answer any questions you may

1 have.

2 CHAIRPERSON NICHOLS: Anything further?

3 MR. OLALUWOYE: No.

4 CHAIRPERSON NICHOLS: Board members have any
5 questions?

6 Is there any public testimony?

7 EXECUTIVE OFFICER GOLDSTONE: I think we have at
8 least one person to testify.

9 CHAIRPERSON NICHOLS: Okay. We had a couple
10 cards.

11 Why don't you just come forward if you signed up
12 to testify on this item. There's no reason to wait for us
13 to get our list organized here.

14 Go ahead.

15 MR. PLOTKIN: Good morning, Madam Chairman, Board
16 members. Norman Plotkin representing the California
17 Automotive Wholesalers Association and the Automotive
18 Aftermarket Industry Association. The aftermarket in
19 California is a \$3 billion industry that employs 250,000
20 Californians.

21 Our mission is to support well-maintained
22 vehicles, which supports your mission of air quality.
23 Oftentimes, too often, your actions tend to be anathema to
24 my clients. And so when you get something right, we
25 believe we have an obligation to show up and commend you

1 and thank you for the work that you're doing.

2 In this case, there were issues with the way the
3 original rule was constructed. Just to give you an
4 example, a distribution center that was in Chico that
5 distributed product to part stores in both Chico and Mount
6 Shasta might carry a high VOC content windshield washer
7 fluid on their shelf and run afoul of your enforcement
8 provisions. And so we brought these issues to your
9 attention and you recognized them and you've made
10 corrections.

11 The ZIP code, that we believe is a very
12 reasonable approach, something that was well understood
13 and that we can implement and we can incorporate into our
14 distribution processes, and so we want to recognize that.
15 It's a common sense solution.

16 The dilution approach we believe also recognizes
17 both human behavior and the realities. I'll tell you,
18 there was a snow event two years ago and I was driving in
19 from my perch in Rocklin and I was cursing as my
20 windshield froze and I had to pull over and throw some of
21 my precious Starbucks on to the windshield so I could see
22 my way in.

23 CHAIRPERSON NICHOLS: What a terrible waste --

24 MR. PLOTKIN: I know --

25 CHAIRPERSON NICHOLS: -- if it was a latte.

1 MR. PLOTKIN: -- I know, I know.

2 So we believe this is a win-win solution. We
3 thank you for your time and effort and the staff's
4 outreach to us.

5 And speaking of outreach, we've pledged to your
6 staff that we are going to use our processes that we have
7 in place to communicate with our members, to inform them
8 of the changes, to educate them about the rule and its
9 purpose, and so we can get the word out so everybody knows
10 what's going on.

11 So, once again, we're here in support. And thank
12 you for your work.

13 CHAIRPERSON NICHOLS: Thank you very much for
14 taking the time to come. People don't often bother to
15 show up if they're in support. So it's always nice to
16 hear that something's gone right.

17 Mr. Magavern.

18 MR. MAGAVERN: Good morning, Board members and
19 staff. Bill Magavern with the Coalition for Clean Air.

20 As you know, we have for a long time supported
21 the reductions in emissions from consumer products, and we
22 applaud the progress that has been made over the years in
23 that area.

24 We have no problem with the amendments that are
25 proposed today, and just want to make sure that the Board

1 and staff are making sure that the increase -- the small
2 increase in VOC emissions that is projected is kept to
3 that very small amount and it doesn't grow beyond that.

4 Thank you.

5 CHAIRPERSON NICHOLS: Thank you.

6 Is Nicole Quinonez here?

7 Yes.

8 MS. QUINONEZ: Good morning, Chairman Nichols,
9 members of the Board and ARB staff. I'm Nicole Quinonez
10 on behalf of the Consumer Specialty Products Association.
11 And I will just briefly summarize the written comments
12 that CSPA filed.

13 CSPA's a voluntary nonprofit national trade
14 association representing approximately 230 companies that
15 manufacture, formulate, distribute, and sell a broad range
16 of products for household and commercial use, including
17 automotive windshield washer fluid products.

18 During the past 23 years, CSPA member companies
19 spent many hundreds of millions of dollars to reformulate
20 our products to comply with ARB's strict standards to
21 improve air quality in California while maintaining our
22 industry's ability to supply effective products that
23 contribute positively to California's health, safety, and
24 quality of life.

25 CSPA supports the proposed modifications to the

1 regulatory requirements for the windshield wiper fluid
2 product category for the following reasons:

3 The proposed modification to the definition of
4 the windshield wiper fluid product category enhances the
5 overall clarity of the applicable regulatory requirements.

6 The modifications will promote public safety by
7 expanding Type A area to include other parts of the state
8 that routinely experience freezing temperatures.

9 And the proposed modifications to the labeling
10 requirements for concentrated windshield wiper fluid
11 products will improve safety for drivers who occasionally
12 travel to areas of the state that experience freezing
13 temperatures.

14 In conclusion, CSPA appreciates the opportunity
15 to participate in the ARB's open and transparent process
16 to develop the proposed modifications to regulatory
17 requirements related to the windshield wiper fluid
18 category.

19 Thank you.

20 CHAIRPERSON NICHOLS: Thank you very much.

21 That concludes the list of witnesses. Is there
22 anybody else who wanted to speak on this item?

23 If not, I will close the record and remind people
24 that the record will be reopened when the 15-day notice of
25 public availability is issued. Written or oral comments

1 received after this date but before the 15-day notice
2 won't be accepted as part of the record on this agenda
3 item. But when the record is reopened for the 15-day
4 comment period, the public may submit written comments on
5 the proposed changes, which will be considered and
6 responded to in the final statement of reasons for the
7 regulation.

8 I don't believe we're proposing -- planning on
9 any amendments during that period. Right?

10 Okay. Regarding any ex parte communications on
11 this item, those are on file. If there's anyone who
12 wishes to see them, they can contact the Clerk of the
13 Board.

14 And we now have time for the Board to review the
15 resolution and --

16 EMISSION INVENTORY BRANCH CHIEF TAKEMOTO: Excuse
17 me, Madam Chair.

18 CHAIRPERSON NICHOLS: Yes.

19 EMISSION INVENTORY BRANCH CHIEF TAKEMOTO: This
20 is Carla Takemoto.

21 We do have a modification to the original
22 proposal, so there will be a 15-day notice.

23 CHAIRPERSON NICHOLS: Okay, good. Thank you. I
24 thought perhaps it was just a routine announcement that I
25 was reading here. So I'm glad to know there actually is

1 something --

2 EXECUTIVE OFFICER GOLDSTONE: Just for clarity,
3 we're adding a ZIP code.

4 CHAIRPERSON NICHOLS: Okay. Well, that's
5 important, very important.

6 It is.

7 You know, I do want to say, just at the risk of
8 taking more time on this item, I know a lot of time and
9 effort went into this, and I really appreciate it.
10 Because oftentimes over the years we've had regulations
11 which, let's just say, people thought were either annoying
12 or trivial or, you know, not really worthwhile in terms of
13 the total amount of emissions that they were going to get,
14 and you spend an awful lot of time for something which
15 doesn't seem like it's going to be that big of a bang for
16 the buck. But, you know, not only has this regulation
17 actually had a good impact in terms of getting people to
18 use better products, but the staff actually did go back
19 and fix it to make it more effective and less burdensome.
20 And, you know, I think it's one of those things that
21 actually deserves to be called out as a positive. So I
22 just want to say I appreciate you bringing this back to
23 us.

24 And I will now call for a motion.

25 BOARD MEMBER D'ADAMO: Move adoption of

1 Resolution 12-32.

2 BOARD MEMBER RIORDAN: And, Madam Chair, I would
3 second it, and again thank the staff for taking into
4 consideration those areas; though they're small pockets,
5 they do freeze. They have incredibly low temperatures.
6 And for those people who need this product, it's a real
7 plus. And I do thank you very much, staff, for
8 accommodating those areas.

9 CHAIRPERSON NICHOLS: Great.

10 Okay. All in favor please say aye.

11 (Ayes.)

12 CHAIRPERSON NICHOLS: Any opposed?

13 Any abstentions?

14 Very good. It's carried.

15 Thank you.

16 Our next item, while people are moving seats
17 here, is an update on the Smog Check Program. Over the
18 last several decades, this program has been providing one
19 of the largest reductions of smog-forming emissions of any
20 programs in California. Yet, evaluations of the program
21 have shown that it could be improved to achieve greater
22 reductions at lower cost.

23 As a result of these evaluations, in 2010, the
24 Legislature authorized major improvements to the program
25 which will be implemented by 2013. Staff will describe

1 the pending changes and will also share some observations
2 about the State's vehicle retirement programs, otherwise
3 known as scrappage programs, which are implemented in
4 conjunction with the Smog Check Program.

5 Our Executive Officer has more than an average
6 familiarity with these programs, having worked at the
7 Bureau of Automotive Repair before he came to ARB. So
8 it's a special privilege to introduce Mr. Goldstene at
9 this point.

10 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
11 Nichols.

12 And not to dwell on it, but when I worked for
13 Assemblyman Lloyd Connelly in 1989, I worked on
14 legislation to expand the Smog Check Program. So this is
15 my -- I suppose this is where my real expertise is. It
16 created the opportunity for Tom and I to work together,
17 and Rob Oglesby and others.

18 So as you stated, smog check has contributed
19 greatly to our improved air quality. We work closely with
20 our colleagues at the Bureau of Automotive Repair to
21 assess its effectiveness and to identify possible
22 improvements. Because the program's features are written
23 into statute in great detail, changes often require new
24 legislation as opposed to regulatory changes.

25 We are fortunate to see our most recent

1 recommendations for improvement incorporated into statute
2 when the Legislature passed and the Governor signed
3 AB 2289 by Assembly Member Eng in 2010.

4 This bill included major changes to the Smog Check Program
5 that will increase emission reductions, streamline the
6 program for motorists, and reduce the cost of the program
7 but as much as \$100 million annually in smog check costs.

8 ARB's Chief Deputy, Tom Cackette, will provide an
9 introduction this morning and the context for the
10 presentation. And then John Wallauch, who's the Chief of
11 the Bureau of Automotive Repair, and Paul Hedglin from his
12 staff are here to update us on the improvements being
13 made. That will be followed by Terry Ford, who will share
14 with you some observations about the vehicle retirement
15 programs operated by the state.

16 So, Tom.

17 (Thereupon an overhead presentation was
18 presented as follows.)

19 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Good
20 morning.

21 This is an outline of what we're going to talk
22 about today. It's a tag team effort. And I'll cover an
23 overview of the Smog Check Program. The Bureau of
24 Automotive Repair will talk about what's changing in the
25 Smog Check Program. Terry Ford of our staff will talk

1 about how the retirement programs are going. And we'll
2 point out a couple of the challenges that still remain.

3 --o0o--

4 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Like
5 most of the programs that the Air Resource Board runs,
6 this program was a world leader when it first began. We
7 ran a demonstration program of dynamometer testing in
8 Riverside well before anybody else was doing that kind of
9 testing. And that was because of our concern about NOx
10 emissions, which need to be measured when the car is
11 actually operating under load.

12 We then operated a centralized
13 change-of-ownership program for five years in the Los
14 Angeles area. There were roughly 20 purpose built
15 facilities that ran assembly-line-like testing of cars
16 throughout the L.A. Basin from I think Santa Barbara all
17 the way to the eastern part of the basin. And this was on
18 change of ownership, which is roughly about 20 percent of
19 the tests that we now perform.

20 The Legislature after that decided that they
21 wanted to have the program operated out of garage-based
22 stations when it went statewide. And as a result of that,
23 we had to develop equipment that does all this
24 computerized testing, but does it in the garage at a
25 reasonable price. And so the Bureau of Automotive Repair

1 showed the -- or developed these different BAR-74, BAR-84,
2 et cetera. These are the pieces of equipment you see when
3 you go get your smog check. And the name is recognized
4 all over the country and I think the world, because most
5 everybody else follows the Bureau of Automotive Repair's
6 equipment specifications for their programs.

7 And then they also created a very large scale
8 electronic data transmission and database. So basically
9 we can type in and find out what the Chairman's cars' test
10 results were from 15 years ago probably. And it provides
11 a very valuable source of information to see how the
12 program is actually operating.

13 And of course, like most of the programs in
14 California, it's one of the largest in the nation. We
15 have 7,000 stations, 15,000 technicians, and a very
16 capable state-of-the-art enforcement program run out of
17 the Bureau of Automotive Repairs, who is responsible for
18 the implementation of this program.

19 --o0o--

20 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: The
21 reason we've spent so much time on this -- and I should
22 point out I was actually hired to work on this program 30
23 years ago, and the first person I met here was John
24 Wallauch, who was running the program at the Bureau of
25 Automotive Repair pain. So 30 years later we're still

1 working on this. But the reason for that is that, shown
2 on the first line, as you can see, there's about 300 tons
3 per day of smog-forming emission reductions that comes
4 from this program in the current year, which is an
5 enormous amount.

6 And just to prove that, I've listed five of the
7 very large and effective programs -- other programs that
8 ARB operates. And you can see that those typically run
9 under to around 100 tons per day. And of course we have
10 many more that are even smaller than that. But it points
11 out that smog check is in the top five of all the programs
12 in terms of the amount of pollution that is reduced each
13 year. And so we put a lot of effort and a lot of value in
14 this program, helping us achieve the clean air objectives.
15 And I think it's responsible for, you know, the clearer
16 skies that we see in most of our urban areas today.

17 --o0o--

18 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE:

19 Over time though, the program has kind of lost
20 its leadership edge. James mentioned that there's 43
21 pages of statute. The statute basically looks like a
22 regulation. Incredible detail. And as a result of that,
23 even minor changes require statutory changes; and as a
24 result, since those are difficult to get, the program has
25 not been good at seeking innovation and change. It's been

1 very difficult to do that.

2 And as you'll hear, one of the big changes is to
3 move to on-board diagnostic electronic testing. You know,
4 we invented that. The Board adopted the first
5 regulations. We run that program for the United States.
6 It's a California-identified program. And yet we are the
7 second to the last state in the nation to switch to that
8 program for smog check. All the other ones, except
9 Colorado, use it instead of tailpipe testing. And we
10 couldn't because the statute said you have to run a
11 dynamometer test to measure the tailpipe emissions. And
12 so fortunately that has changed.

13 One other important factor here is that we --
14 jointly the Bureau and ourselves conducted a major study
15 of the effectiveness of the program. And even though
16 we're getting 300 tons per day of reduction from the
17 program, we've got some fairly startling results; and
18 they're listed here.

19 First of all, almost 20 percent of the passed
20 vehicles were passed incorrectly. They should have failed
21 and been sent off for repair.

22 Nearly half of the failed vehicles were not
23 properly repaired. In other words, just days after they
24 went back on the street, we measured their emissions at
25 the roadside and found that they had high emissions rather

1 than the low emissions they were certified by the smog
2 check stations.

3 And the conclusion from that was that fraud and
4 incompetence was somewhat a major problem in these smog
5 check stations, the 7,000 or so that we have. And that
6 when we calculated what kind of emission reductions we
7 were losing if these cars, the ones that were incorrectly
8 passed and incorrectly repaired just were corrected and
9 fixed so that they operated like the average vehicle that
10 did get correctly repaired, there would be 70 more tons a
11 day emission reduction that we could achieve. And so that
12 was the really driving factor to that. And I think the
13 fraud aspect was the driving factor in which the
14 Legislature passed AB 2289 in 2010 to try to fix this
15 problem.

16 And so I'm going to hand this over to John
17 Wallauch, the Chief of the Bureau of Automotive Repair,
18 and he will go through what the Bureau is doing to
19 implement this law and to address some of the problems
20 that the study revealed.

21 --o0o--

22 BUREAU OF AUTOMOTIVE REPAIR CHIEF WALLAUCH: Good
23 morning. Thank you very much for having the Bureau of
24 Automotive Repair here to give you an update on what we're
25 doing to improve the performance of California's smog

1 check program.

2 I thought I was always too loud.

3 It's a pleasure to be here to do that. And we
4 appreciate you taking the time to hear from us.

5 First, if it was not for the report that Tom
6 mentioned, we probably would still be muddling along
7 wondering what's going on. But we know now. We put a
8 solutions paper together. From that came Assembly Bill
9 2289. And now we have the tools to make some changes to
10 the program which we think will get us on the right track
11 to get performance back into the program.

12 I'm to start off by talking about a few of the
13 key features of that bill. And then I'm going to turn it
14 over to Mr. Paul Hedglin, who will give you more detail to
15 it.

16 But first let me say that a STAR program -- and
17 the STAR Program is basically a data analysis program that
18 we put together, which was also mentioned in the report,
19 that said there's a high probability of stations who
20 perform well the cars will pass inspection. The cars --
21 people who do poorly and have poor performance ratings,
22 those cars will fail. And from that, a program was
23 developed which was called STARS. And that rates both the
24 station and the technician.

25 The ratings for those stations and technicians

1 have been on our website since July of this year. And
2 we've had a lot of interest from stations looking at that
3 and asking questions. Over 40 -- or almost 40 workshops
4 were conducted around the state to explain the program to
5 industry.

6 It's interesting to say that probably half the
7 calls we get on that are from people wanting to know how
8 to improve their score, not explaining about their low
9 score. So we see that as a positive indication industry
10 is taking heed and listening to what's going on.

11 The stations which get to be STARS, which will be
12 what we call test-only and test-and-repair stations, a mix
13 of both, will be able to perform initial inspections on
14 approximately 3.5 million vehicles which will be directed
15 to them each year starting this year. And a directed
16 vehicle is a '76 through '99 year model vehicle, the older
17 vehicles, the more high emitting vehicles, the ones we
18 want to make sure we get the best inspection on we can.

19 That STAR Program will start on January 1st of
20 this year.

21 Currently, we have about -- we've looked at the
22 scores. Some 3,000 stations out of the 7,000 have scores
23 which indicate they would pass. That's not to say that
24 all 7,000 will want to go -- or 3,000 would want to go
25 into the program. Currently we have 1,600 applicants

1 which have passed the screening. And I'm in the process
2 now of signing those until a signature stamp gets on my
3 desk, hopefully this Friday.

4 So we're moving right out. We're getting a lot
5 of interest in it, and it's good interest. And we really
6 look forward to STAR as being the answer to improve the
7 performance of the program in a large way.

8 How will we know how we're doing with this
9 program? Well, in the 2289 we have a requirement for
10 annual reporting to the public on how the program is
11 functioning. And that report will be going back to the
12 baseline, which is the 2009 report. And we'll make a
13 comparison of the data that we gathered then to the data
14 we're gathering today. And we gather that data, by the
15 way, with four roadside teams around the state who pull
16 vehicles over using the California Highway Patrol. And
17 they are tested. It's strictly voluntary. Nothing --
18 we're just gathering the data. And also we give that
19 information to the consumer, which a lot of them
20 appreciate they know how theirs operate. That data will
21 then go into the analysis.

22 And by June of next year, we'll have our first
23 really data cut. It will not be a full one, because not
24 until 2014 will we have a good comparison of what really
25 is happening across the fleet, because, you know, we have

1 the biannual program and so we only see half the fleet
2 each year.

3 By 2014, it's going to be a benchmark for us to
4 see how well we're doing. And we're all hoping that we're
5 going to see a good strong increase in performance, which
6 means an increase in failure rates, which indicates the
7 program is doing as it should do.

8 --o0o--

9 BUREAU OF AUTOMOTIVE REPAIR CHIEF WALLAUCH: The
10 other major component of 2289 is a -- as Tom mentioned,
11 we're going to get into the 21st Century with testing
12 vehicles now with OBD-only interface. No longer will they
13 be tested using the tailpipe dynamometer testing and the
14 four gas analyzers and all that we do now. That will be
15 still continued on the older vehicles. The '76 to '99s
16 will still get those tailpipe tests. The newer vehicles,
17 2000 new, it will strictly be an interface with the OBD,
18 on-board computer of the vehicle.

19 We see this as being interesting and, from our
20 perspective, that we've taken a different road than other
21 states have taken. We have centralized the computer
22 program that makes the pass/fail decision, gathers the
23 data. It does a lot of quality control checks. It looks
24 for things which should indicate that we're not looking at
25 the same vehicle that the information that we're getting

1 comes from, which is a process called "clean screen" by
2 garages, which you use a car they know are going to pass
3 to get a vehicle that was going to fail a passing
4 certificate.

5 So we have a lot of quality control checks in
6 there that we're going to be using to make sure ours is
7 going to be -- is highest integrity that we can think of
8 doing. And we're not going to just stop when we start,
9 but we're gathering all the data in the OBD. So as we get
10 smarter, get -- learn more about the data, we'll be making
11 other changes to assure that our enforcement is adequate
12 for it.

13 In that, we -- as Tom mentioned, a hundred
14 million. That was when we were going to go 1996 and
15 newer. We're now going to start at 2000. So we dropped
16 that down some. But it's still a -- it's a potential
17 savings to consumers; that's you and I and everyone who
18 drives a vehicle which is older than six years old.
19 Because, as you know, you get an exemption on the first
20 six years.

21 So if you're like I am - and I have five of them
22 in this, so I'm a real big participant in this one - you
23 will see some savings. We're hoping that -- based on the
24 fact that, as Paul will tell you, the equipment is going
25 to be very low cost, the test time is something like two

1 to three minutes - the current test now is 20 minutes - so
2 you can see there's a lot of time savings from the garage
3 standpoint; we also have made some changes to our
4 licensing requirements so that a test technician can do
5 this test and not have a test or repair technician, which
6 is a much higher skilled individual and their hourly rate
7 goes obviously higher, so that we hope to see that we
8 will -- you and I, we'll potentially have this savings
9 come to us in lower costs. In other states, it ranges
10 from 20 to 30 dollars. And we'll have to see how industry
11 responds here in California. Because, as you know, in
12 California we do not regulate the cost of the inspection.
13 That's market driven. But hopefully with the low cost
14 equipment, a fast inspection, lower labor costs, all those
15 will lead up to the fact that we'll have that kind of a
16 lower cost.

17 And the competition that now this type of
18 equipment can use in locations which previously could not
19 afford the space -- because of the dynamometer, the
20 installation and the space it required, now this is
21 something on a cart they can roll around within the
22 building, so it just lends itself to a lot more people
23 getting into it, and that will drive the price down
24 through competition.

25 The last thing that we have to get to, but it's

1 just something that's a necessity, we have to make sure
2 people understand we're serious. And by doing that, we've
3 changed the fine amount from 2500 to \$5,000. And for the
4 first time, technicians are now in that fine amount. A
5 station paying a \$2500 fine is one thing. But as you can
6 imagine, a technician now faced with a \$5,000 fine, that's
7 going to be fairly substantial. So we hope the deterrent
8 of this is going to be enough that we will not have to see
9 a lot of these really occurring. But if we do and we find
10 they're happening, we will stand ready to go to court with
11 these with the large fined amount.

12 So we think with these kind of tools now in our
13 hands, we have a good chance to make a significant
14 improvement to the program.

15 And at this time I'd like to call Paul Hedglin of
16 our Engineering Department to have him take over. And
17 he's going to give you a lot more detail than I try to
18 provide.

19 Thank you.

20 --o0o--

21 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN:

22 Good morning, Chairman Nichols, members of the
23 Board. Paul Hedglin, BAR engineering's group.

24 So some more details on the STAR Program. As
25 John said, it's a certification program based on

1 inspection, data, performance standards as required now in
2 law.

3 The stations have to meet a minimum performance
4 standard to be certified by BAR into this program in order
5 to participate and to have the right to inspect the older
6 vehicles, which are roughly a third of the vehicle fleet
7 subject to smog check.

8 Stations that get into the program have to
9 maintain that performance level to stay in the program.
10 Otherwise, they're disqualified and they lose that
11 population of vehicles from inspection.

12 The performance standards, we collect tens of
13 millions of inspection records a year. They're based on,
14 were the appropriate tests performed on the vehicle, were
15 improper activities done in preparation of the vehicle for
16 the test? Those sorts of things. There's short-term
17 metrics that are evaluated on a quarterly basis. There's
18 longer term metrics that are evaluated on a twice-a-year
19 basis. So there's a whole gamut of different measures and
20 metrics that we look at to determine the scores for these
21 stations.

22 All of this information is provided back to the
23 stations and technicians through our public website. They
24 can go into their station number, technician number and
25 pull up their own individual report card and see their

1 current status. It says whether they pass or fail, which
2 allows them into the program. So they're currently
3 looking into that right now before they apply to the
4 program. They know their status. They can even drill
5 down into the individual vehicles that were improperly
6 tested and they can see and learn where the issues are and
7 improve. We've had these report cards out for several
8 months now. It's a slow start to improve the learning
9 curve, you know, address their familiarity with the
10 different measures.

11 Improved inspection influences better repair. So
12 what we're talking about there is with the technicians and
13 stations being held to a higher standard for the
14 inspection, they're going to be more careful in certifying
15 a vehicle that was improperly repaired. Because an
16 improper repair is more likely to fail again in the
17 future, and they don't want to pass a vehicle that will
18 fail soon after because that comes back and it affects
19 their scores.

20 Outreach. Within a few days, the DMV renewal
21 notices for the January vehicle renewals will come out.
22 And that notice that all the public gets when their
23 renewals come due, it says if your vehicle -- if you have
24 one of the 1999 or older model years and just a handful of
25 the 2000 and newer vehicles, it will say on that notice,

1 "Take your vehicle to a STAR station." So the STAR is the
2 new branding for those stations that can inspect those
3 type of vehicles, and it says on their notice.

4 You also notice in the top right corner of the
5 slide the blue smog check signs still have -- now have a
6 red sign hanging below their sign that says "STAR." So as
7 the consumers drive down the street looking for a station,
8 it's obvious which ones they can go to.

9 There's a whole variety of information on our
10 public website. We have a STAR technician area where they
11 can get to their reports. They can see the regulations,
12 question and answers for industry. There's also a public
13 side to this where the public can go in and understand how
14 to find a station that can inspect their vehicle.

15 And industry workshops. We've done several
16 workshops, as John said, about 30 of them, up and down the
17 state, talking to industry, community colleges, automotive
18 teachers, just to share this information and educate them
19 how all these metrics work.

20 --o0o--

21 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN: So
22 1999 and older model year vehicles still getting a
23 tailpipe test. These are the highest emitting vehicles.
24 We want the dirtiest vehicles to go to the best performing
25 stations. So this slide is showing the two pollutants

1 that were non-attainment, 1999 and older model years, the
2 red line splitting the older and the newer model year
3 vehicles.

4 So the left side, all those older vehicles go to
5 the STAR stations and still get the tailpipe test so we
6 can identify their emissions.

7 The newer vehicles can go to any station and get
8 the new OBD test.

9 --o0o--

10 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN:

11 This is just a picture of what industry or even
12 the public would see if they were to go and pull up their
13 individual station or technician report cards on our
14 public website. You can even go and look at this
15 yourself. You just have to enter a station number in that
16 first box. And you can get that number off your vehicle
17 inspection report that you receive when you get a smog
18 check. You enter that number, and then subsequent screens
19 show you all the individual measures that we evaluate the
20 stations against.

21 Within this page, there's a whole variety. It
22 cites the authority for the program, the regulations.
23 There's buried links for all the questions and answers.
24 So it's all to educate the public and the industry.

25 --o0o--

1 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN: So
2 to change gears a little bit. We talked about the 2000
3 and newer getting the new OBD test, no longer getting a
4 tailpipe test. So the left side of this slide, the red
5 portion of the pie chart, seven million vehicles on an
6 annual basis, these are the 2000 and newer vehicles.
7 We're talking about all the gasoline vehicles,
8 hybrid-powered vehicles, and even the 1998 and newer
9 diesel-powered vehicles. Those will all get the OBD test
10 individual inspection.

11 The right-hand side, the blue colored portion of
12 the pie, the three million vehicles, those are the 1999
13 and older vehicles. They'll get the traditional tests
14 that we're doing today, the tailpipe. And a fraction of
15 those '96 to '99s will still get an OBD. Those will all
16 be tested on the old current equipment.

17 --o0o--

18 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN:

19 This slide shows our current equipment for the
20 existing tailpipe test. This applies to all vehicles
21 today. So fall of next year when the new equipment rolls
22 out for the OBD test, this set of equipment in this test
23 will only apply to the 1999 and older vehicles.

24 You can see that there's several pieces to this
25 equipment. It's expensive. It's proprietary. The test

1 takes a long time. There's a five-gas measurement
2 emissions analyzer. There's a dynamometer. There's a
3 treadmill device they drive the vehicle on. There's a gas
4 cap tester. There's a fuel tank tester.

5 And all this equipment's proprietary. They have
6 to go back to that manufacturer and buy their computer or
7 their parts to service and repair the equipment.

8 This whole system sells for between 30- and
9 \$50,000 for an entire setup.

10 STAR stations must have this equipment. So when
11 the 1999 and older vehicles are directed by the state to
12 the STAR stations, those stations will have this
13 equipment. So consumers will know they can get that test
14 anytime they go to a STAR station. There's no shopping
15 around or confusion.

16 Other stations, it's optional. If they don't
17 want to do these older vehicles, they don't need to buy
18 this equipment. They can buy the new equipment, they can
19 buy the old equipment, or they can have all the equipment.
20 It's their option. It's their business model.

21 --o0o--

22 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN: So
23 OBD testing in lieu of tailpipe. The new OBD testing will
24 utilize software on our central database. It will be one
25 version of software. It will be like a web page that the

1 equipment talks to. So any time we want to change a
2 standard or implement new and enforcement measures related
3 to this test, we can turn those on in our central
4 web-based software on our servers, and it will effect the
5 whole statewide. So we can make incremental changes and
6 improve on some of the enforcement measures John was
7 speaking of earlier.

8 A couple of examples of those are vehicle
9 identification. We can pull the VIN number out of the
10 vehicle's computer and tell that that vehicle's actually
11 there plugged into the equipment and not some other
12 vehicle being substituted for the test. So we can address
13 the clean plugging issue.

14 There's other things in the vehicle computer
15 information, such as the software number in the vehicle.
16 We can identify if the computer was tampered with
17 aftermarket equipment, for example.

18 There on the bottom just simply shows the current
19 equipment is limited in its OBD data collection. It only
20 applies to the older vehicles. The new equipment allows
21 to test the newest model year vehicles and essentially
22 collect an infinite amount of data. There's hundreds and
23 thousands of pieces of data we can collect out of the new
24 equipment.

25 --o0o--

1 BUREAU OF AUTOMOTIVE REPAIR ENGINEER HEDGLIN:

2 This is a picture showing a concept of what the
3 equipment might look like. We'll be getting this
4 equipment in our hands in a few months. So this will
5 apply to the 2000 and newer vehicles beginning fall next
6 year. It's low cost equipment.

7 The portion in the middle - and I also brought a
8 sample of it here - it's just a cable with an OBD reader.
9 That's all we're talking about now. We're not talking
10 about tailpipe measuring equipment or a dynamometer and
11 all that other stuff.

12 So the portion in the middle of the slide is the
13 BAR-certified piece of system. Everything else, the
14 computer, the printer, those ancillary pieces are off the
15 shelf. They're no longer proprietary. They can go to any
16 computer store and buy those pieces of equipment. And
17 whatever they have in the shop might suffice as well. So
18 we're getting away from the proprietary high-cost
19 equipment.

20 Addressing these equipment costs, getting away
21 from the maintenance - this is just more of a disposable
22 item than an item that needs an annual service - will all
23 trickle down to motorist savings.

24 So all STAR stations will be required to have
25 this equipment, as I said earlier. Any other stations not

1 in the STAR Program, it's their option. If they want to
2 specialize on the newer vehicles, they would need this
3 device.

4 And that's all I have.

5 --o0o--

6 MR. FORD: My name is Terry Ford, and I work for
7 ARB. I'm going to be talking about the Vehicle Retirement
8 Program.

9 But as we look at improving smog check, the smog
10 check portion was part of the solution. This is another
11 part of the solution. In California's older vehicle
12 population, emissions per mile increase rapidly as
13 vehicles age. A 20-model-year old vehicle produces over
14 30 times the smog-forming emissions as a 5-model-year
15 vehicle.

16 --o0o--

17 MR. FORD: Why do we want to accelerate vehicle
18 retirement? There's three reasons that we're going to be
19 looking at:

20 First of all, California has a unique problem.
21 California has five times as many older vehicles as the
22 national average. We have two million vehicles that are
23 20 model years or older. And remember that last slide
24 where I showed you a 20-model-year old vehicle on average
25 produces 30 times or more the emissions of a 5-model-year

1 vehicle. These 20-model-year old vehicles account for
2 only 6 percent of the miles traveled in California, but
3 they produce 40 percent of the smog-forming emissions.

4 The second issue that we have is 65 percent of
5 the gross polluters are 20 model years old or older. In
6 fact, 78 percent are 1995 and older pre-OBD 2 vehicles. A
7 gross polluter is a vehicle whose emissions are about
8 twice the pass-fail standard of a vehicle the same age.
9 Now, what that means is an older vehicle that is a gross
10 polluter, that produces twice the emissions as a failed
11 vehicle that is an older vehicle, it was certified
12 originally to much less stringent standards. Therefore, a
13 gross polluter that is an older vehicle has truly high
14 emissions.

15 The third item is that we have a SIP commitment
16 to voluntarily retiring 50,000 vehicles per year in the
17 South Coast and retiring 10,000 vehicles per year in the
18 San Joaquin Valley.

19 --o0o--

20 MR. FORD: I think this slide helps to -- you
21 visualize what we're really talking about in terms of
22 older vehicles. If we look at the left-hand side of the
23 slide, we see 2000 and newer model year vehicles. Those
24 vehicles account for -- in 2011, they accounted for 72
25 percent of the vehicles on the road. That 72 percent of

1 the vehicles traveled 79 percent of the miles that were
2 traveled in California and they produced 28 percent of the
3 emissions.

4 Now, if we go to the right side of that chart, we
5 see 1992 and older vehicles. Those account for 9 percent
6 of the vehicle population. They travel just that 6
7 percent of the miles. And they produce 40 percent of the
8 smog-forming emissions. That's the group on the
9 right-hand side that we really would like to concentrate
10 on and get more of those retired.

11 --o0o--

12 MR. FORD: If we look at the current California
13 vehicle retirement programs - and we're talking about the
14 voluntary retirement programs - the two largest programs
15 are state-operated programs. And they're operated by the
16 Bureau of Automotive Repair. They're administered by that
17 Bureau. And those programs collectively in the last
18 two years have retired about 95 percent of the vehicles
19 that have been voluntarily retired in the state. And when
20 we're talking about voluntary retirement, we're talking
21 about individuals who decide to retire their car early --
22 or their vehicle early so that they will get an incentive.
23 And so these are incentivized programs for early
24 retirement.

25 If we look at the first program that BAR

1 operates, it is known as the Consumer Assistance Program,
2 or CAP. It started in November 1998 and it's been
3 operating since that time. The current budget is about
4 \$20 million.

5 And what CAP does is it offers a consumer -- at
6 the time a vehicle fails their smog check, it offers the
7 option of early retirement. And so that's an extremely
8 important and valuable offer for consumers at a time where
9 maybe they'll find their car is too costly to repair or no
10 longer merits more cost going into those repairs. That
11 program provides an incentive of a thousand dollars for
12 participants. But if it's a low cost participant, it's a
13 thousand five hundred dollars. So it has a societal
14 benefit also.

15 The newer program is the Enhanced Fleet
16 Modernization Program, what we call EFMP. Sorry about
17 whoever came up with that acronym. But that program
18 started in August of 2010. This last year it had about
19 \$35 million in its budget. It is funded through AB 118.
20 And it sunsets January of 2016.

21 This program allows a vehicle for any reason to
22 be retired at any time, as long as that vehicle is subject
23 to smog check. Plus it allows older vehicles, those
24 vehicles that are 1976 or older that are no longer in the
25 Smog Check Program, vehicles that have high emissions, to

1 be retired through this program. And it will also allow
2 the retirement of vehicles that are not currently
3 registered, as long as the vehicle owner can prove that
4 they were operating in the district for the last
5 two years. And this program has the same incentives as
6 the CAP Program.

7 When we look at all other vehicle retirement
8 programs -- voluntary vehicle retirement programs
9 statewide, including the district programs, we find that
10 they account in the last two years for less than 5 percent
11 of the voluntary vehicle retirements.

12 But there's one program there that I think is
13 worth mentioning. And that is a program from a Unocal
14 (phonetic) settlement fund. And that program operated in
15 the last two years by the Foundation of California
16 Community Colleges, the people who run the Referee Program
17 for the Smog Check Program. And that program was called
18 VRRRM V-R-R-R-M, Vehicles Repaired, Retired, and/or
19 Replaced for Motorists. And in that program over the
20 two years, 3200 vehicles were retired and/or replaced. In
21 fact, 2100 hundred of those were retired and replaced.
22 Over 90 percent of those were in the South Coast.

23 --o0o--

24 MR. FORD: If you look at those two years for the
25 state program, actually 82,108 vehicles were retired

1 voluntarily in the two state programs:

2 37,000 of those under CAP where they were retired
3 at the time a vehicle failed and the consumer elected to
4 retire their vehicle rather than repair them. And 45,000
5 were retired under the new EFMP program; and those were
6 vehicles that retired at any time.

7 If we look at both programs, both programs
8 retired about 50 percent of their vehicles that are 20
9 model years or older.

10 If you look at the gross polluter issue, we know
11 that 38 percent of the vehicles retired in CAP were gross
12 polluters. But unfortunately, because EFMP can be at any
13 time, we don't have the emissions data at the time that we
14 retire the vehicles and so we can't tell you how many
15 gross polluters were retired under the EFMP. That's one
16 of the issues that we want to study. We want to know
17 that.

18 The vehicles scrapped for low income
19 participants, we're finding a very high percentage of the
20 vehicle scrapped in either program or for low income
21 participants: 65 percent for cap; 68 percent for EFMP.

22 And for public acceptance, CAP obviously offers
23 that alternative at the time a vehicle fails. But EFMP
24 this last year was so popular, it ran out of funds in
25 eight and a half months. And so it has been a very

1 popular program. But it still has its challenges, which
2 we're going to point out.

3 --o0o--

4 MR. FORD: And finally on the vehicle retirement
5 challenges, we're looking at two challenges that really
6 are affecting the EFMP program. We want to determine the
7 optimum strategy for EFMP. EFMP was originally designed
8 to be as flexible as it could be to take all vehicles.
9 The problem with that is, as we're looking at it from a
10 high level, we really don't see yet that it's focused on
11 the highest emitters or the worst non-attainment areas.
12 We need to analyze the data. And based on that analysis,
13 we believe that we're going to be coming to the Board to
14 ask for modifications in the regulations. The statute is
15 broad. So that gives us a good blanket under which we can
16 work. We need to look at the regulations.

17 We will use the findings to tighten eligibility
18 and to improve cost effectiveness if that's what the
19 findings show us. But what we believe is that the outcome
20 would be a smarter program with increased benefits per
21 dollar spent.

22 The second part of this issue is really a
23 challenging one. And this is that the 2007 SIP retirement
24 goals for voluntary retirement are not being met, not even
25 close. And in the South Coast, these two programs

1 combined because they are statewide, they're only meeting
2 30 percent of the South Coast commitment. We're meeting
3 60 percent of the San Joaquin Valley commitment. And I'll
4 refresh your memory there. Those two commitments combined
5 are 60,000 vehicles retired a year. In the CAP and EFMP
6 program statewide, we only did 41,000 a year.

7 So we don't have the budget to do that 60,000.
8 And of course because we're taking people from all over
9 the state wanting to insure that we're meeting their needs
10 too, we're not really meeting enough of the South Coast
11 that we would like to meet in terms of their needs.

12 That's an overview. We're going back as a staff
13 from both organizations, BAR and EFMP, and now we're
14 really looking at the data from the first two years for
15 EFMP trying to find the emissions data, associate that
16 with the vehicles that were retired, the DMV data, and
17 determine what really we are achieving in this program.
18 But we wanted to give you an overview.

19 Thank you, Madam Chairman.

20 CHAIRPERSON NICHOLS: And thank you.

21 Who's going to actually be doing this analytical
22 work? Are we going to be putting out a contract or -- do
23 we know yet?

24 MR. FORD: To begin with, we are doing this
25 evaluation of the current data at El Monte. But as we're

1 looking ahead, we either will have to go and contract it,
2 or BAR is looking at doing part of that research and
3 assessment internally on their side. So we are encouraged
4 by the possibility that they may do it. That will make it
5 much faster.

6 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: I think
7 one of the issues is that for the scrap program where you
8 can take it in at any time, since there's no smog check
9 record or current smog check record at that point, the car
10 just goes to the wrecking yard. And so BAR is going to
11 intercept some of those cars and send them off to the
12 referees and give them the smog check. That will get us
13 data on what are the cars that we're actually scrapping in
14 that program. We have it in the CAP program because they
15 just went through smog check. And then that will allow us
16 to do the analysis. And I think BAR will be able to do
17 much of that analysis for us.

18 CHAIRPERSON NICHOLS: Great. Thanks.

19 Questions?

20 Dr. Sperling.

21 BOARD MEMBER SPERLING: I'm very impressed with
22 the progress that's been made. You know, this has been a
23 painful 30 years arriving at a good smog check program.

24 It raises -- and so it really is impressive. And
25 it's so simple and it seems like it will be effective and

1 efficient.

2 And when I then listen to the presentation about
3 the vehicle retirement, which seems to be a rather
4 complicated program in the sense that there's a lot of
5 management, there's a lot of money involved, is there any
6 thought being given to using -- going back to basic
7 economic principles and just charging cars, drivers for
8 the emissions for their vehicles and then creating a pool
9 of money and using that money to pay for the retirement of
10 vehicles? That would save the government, taxpayers a lot
11 of money. It would make it a much -- I think it would
12 make it a much simpler program. Is that part of the
13 study?

14 EXECUTIVE OFFICER GOLDSTONE: Dr. Sperling --

15 BOARD MEMBER SPERLING: And given -- you know,
16 and I say that because now you've got all this great data
17 that's so simple to collect and available, it just
18 seemed -- you know, economists have talked about this for
19 decades. But it was too cumbersome to do it because you
20 couldn't get the data and it was hard to manage it. But
21 it seems like now we've got the data, we've got the means
22 to do it.

23 EXECUTIVE OFFICER GOLDSTONE: Dr. Sperling, it
24 could be a very practical approach to provide those kinds
25 of incentives I guess to induce people to get rid of their

1 older cars sooner. There are places in the world, like in
2 Japan, that the older your car gets, the more your
3 registration fees are; as opposed to what we do here, is
4 that we key to the value of the car, not the emissions of
5 the car. There are other ways to go about that.

6 It's not something that the Bureau of Automotive
7 Repair or ARB would take on directly in terms of our
8 engineering expertise and our talent there. But it's
9 certainly something that should be considered in an
10 analysis that could eventually be considered by the
11 Legislature.

12 BOARD MEMBER SPERLING: I can see you were
13 prepared for that question.

14 (Laughter.)

15 BOARD MEMBER SPERLING: But it does seem like
16 someone should be looking at that.

17 EXECUTIVE OFFICER GOLDSTONE: Yeah. And there
18 are models around the world that could be looked at.

19 CHAIRPERSON NICHOLS: Yes, indeed.

20 Okay. Dr. Balmes.

21 BOARD MEMBER BALMES: Well, first, I don't go
22 back to 1976 in terms of my experience with smog check.
23 But the first time I ever testified before the Legislature
24 was for the Lung Association in support of smog check.
25 And I was asked by one of the senators I was testifying

1 before. He gave me a hard time because I took money from
2 EPA for research, so therefore I wasn't an appropriate
3 witness in support of smog check.

4 But I like -- well, first of all, I want to agree
5 with Dr. Sperling that this is really great to see this
6 collection of data and simplification of the program. And
7 as I pointed out a couple meetings ago, now my car can be
8 properly tested, my, you know, Jetta TDI with on-board
9 testing.

10 And I like in terms of simplicity what Professor
11 Sperling suggested. But though I usually think he's
12 pretty practical for a professor, I think that if we had a
13 hard time considering a carbon tax politically, I think
14 we'd have a real hard time considering --

15 CHAIRPERSON NICHOLS: Hey, congratulations on
16 getting carbon tax back onto the discussion.

17 BOARD MEMBER BALMES: I feel I can say it now.

18 CHAIRPERSON NICHOLS: Good work.

19 BOARD MEMBER BALMES: I think given that many of
20 these high emitting vehicles are from low income folks,
21 even though I like the simplicity of what you suggest, I
22 think it would be hard to implement, practically and
23 politically.

24 But I would like to see a way to simplify the
25 Vehicle Retirement Program. Just the contrast between how

1 you're improving smog check with how complicated the
2 vehicle retirement programs are is striking to me.

3 EXECUTIVE OFFICER GOLDSTONE: Part of the reason
4 for that is that there's a lot of money involved in the
5 Vehicle Retirement Program and we have a fiduciary
6 responsibility to make sure that we're buying the actual
7 car that's the polluting problem.

8 And to Tom's earlier point, we do need to start
9 checking these other cars so we get a baseline of what the
10 effect of emissions are. But I understand your point.

11 There is maybe a middle ground technological
12 solution that doesn't get quite to what Dr. Sperling is
13 talking about, but it's also politically challenging. But
14 I'll throw it out there because of advances in technology,
15 which is these new telemetric systems like OnStar and
16 other things do transmit certain kinds of emissions data
17 that could eventually be used, some day, to track
18 emissions. And it means that maybe nobody ever has to get
19 a smog check unless there's a signal that they allow to be
20 transmitted that says their car's having emission trouble.
21 That's also a challenging one politically. But it is a
22 possible solution for the future if people are interested.

23 CHAIRPERSON NICHOLS: DeeDee.

24 BOARD MEMBER D'ADAMO: I'd like to talk a little
25 bit about co-benefits or the possibility of maybe looking

1 at co-benefits as a way to get some additional funding
2 into the program.

3 So, Mr. Ford, your slide, I think it's slide
4 number 17, the one with the bars.

5 MR. FORD: Is this the one?

6 BOARD MEMBER D'ADAMO: Yeah.

7 So I'm wondering, Mr. Cackette, could you
8 hypothesize as to what this chart would look like if we
9 had greenhouse gas emissions. Would we see -- I imagine
10 it wouldn't be as significant as this, looking at 1992 or
11 older. But would there be a similar trend?

12 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: The
13 trend would be different. The very old cars, which are
14 not even -- which are I guess under the older category
15 here, but back in the '80s and earlier, would have higher
16 greenhouse gas emissions per mile for their age.

17 But because the U.S. did not increase the CAFE
18 standards, the fuel economy standards, for over 20 years
19 they were just flat, the fuel economy of the cars in this
20 chart, let's say from mid-80s up through late 2000s, were
21 kind of just constant. So you wouldn't have this as much
22 of an age-based effect on CO₂. You would have some cars
23 that are -- you know, that more of them are running with
24 problems, and that can increase, although not necessarily
25 always, increase their CO₂ emissions, and repair can

1 improve that, but it would not be as dramatic as this.

2 BOARD MEMBER D'ADAMO: So would it be more
3 dramatic if the cutoff were, say, you know, the 70s?

4 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yeah,
5 the older cars -- '75, when the CAFE program first
6 started, I think the average fuel economy of cars was 14
7 or 15 miles per gallon. And that, you know, correlates
8 fairly well with CO₂. And then CAFE improved that over --
9 sometime until the 1980s when it hit 27 miles per gallon,
10 or roughly that. And then it's just flat after that. So
11 those are kind of the time frames.

12 BOARD MEMBER D'ADAMO: Yeah, just trying to think
13 of, you know, other creative funding strategies. I know
14 the AB 32 fund is going to quickly become oversubscribed.
15 But that might be, you know, another option to consider.

16 And then also, you know, partnering with WSPA and
17 some of the other organizations to see if it would be to
18 their advantage to get these cars off the roads.

19 CHAIRPERSON NICHOLS: It's time to move.

20 (Whereupon there was an interruption in the
21 proceedings.)

22 CHAIRPERSON NICHOLS: Well, that's one way to
23 take a break.

24 Thanks, everybody. We appreciate your help and
25 cooperation.

1 BOARD MEMBER SPERLING: Madam Chairman, while we
2 were under the table there we had a little discussion.

3 CHAIRPERSON NICHOLS: Oh, really?

4 (Laughter.)

5 BOARD MEMBER SPERLING: And to add to that, the
6 follow-up is that as we go forward with the new cars
7 becoming far more efficient with far lower CO₂ because of
8 that great program we adopted less than a year ago, what
9 Board Member D'Adamo was saying is going to actually
10 become more true, that we are going to get the situation
11 where the older vehicles are far worse than the newer
12 vehicles. And so there will be an incentive and a
13 co-benefit to targeting the older vehicles more so in --
14 not right now, as, you know, Tom Cackette said, but in the
15 future that will be true.

16 CHAIRPERSON NICHOLS: Well, it occurs to me that
17 even now you could look at these older vehicles as a
18 resource to use to get some funds, the CO₂ benefits of
19 scrapping them to apply towards the advanced technology
20 vehicles. I mean it wouldn't be enough for a poorer
21 consumer to allow them to buy a car, but it would be
22 enough to provide some funding for a program that is in
23 need of extra funds.

24 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yeah,
25 you would need that, because in the evaluation of the

1 scrap program that we've done previously it showed that a
2 car that got scrapped was replaced by a nine-year or newer
3 car. And so for the older cars here, they're going to get
4 replaced by middle-aged cars that have basically the same
5 fuel economy. But as we get either people to buy with a
6 voucher program a four-year or newer car, then we'll start
7 replacing them with some of these higher -- or lower CO₂
8 cars that the new program started in 2009, the Pavley
9 standards, will cause.

10 CHAIRPERSON NICHOLS: Exactly.

11 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: And
12 that will dramatically increase over the next ten years.
13 So it's a good thing to try to look for to the future.

14 CHAIRPERSON NICHOLS: Finding a way to monetize
15 the CO₂ benefits there could really be very helpful. It's
16 a good project for a grad student, I would think. It
17 would be a good project for a graduate student to work out
18 the details of how to make the program work.

19 Mr. De La Torre.

20 BOARD MEMBER DE LA TORRE: I had a couple of
21 questions, and one of them you started to address.

22 The first is the difference between the thousand
23 and the \$1500 based on income. Explain to me what the
24 rationale is there. Because if it's triggered by the
25 value of the vehicle, then why is there a discrepancy

1 based on the income of the individual who'd traded in the
2 car?

3 BUREAU OF AUTOMOTIVE REPAIR CHIEF WALLAUCH: It's
4 a statute requirement that says two -- two and a half or
5 two and a quarter tons is the CPI index for low income,
6 which is a family of four, I believe runs at 53- or 54,000
7 a year. So that was put in statute as being the
8 identifier of who was low income.

9 EXECUTIVE OFFICER GOLDSTONE: That amount's not
10 keyed to the value of the vehicle. It is solely based
11 on -- if you meet the standard that Mr. Wallauch just
12 mentioned, then you are eligible for extra money, with the
13 thinking that that would help you buy a newer car. And I
14 think that rule was passed by the Legislature several
15 years ago. I think Assemblywoman Montanez was the author
16 of that bill that allowed BAR to do that.

17 BOARD MEMBER DE LA TORRE: Once you said it was
18 in statute, I figured it out. Thank you.

19 And clearly I think, to Tom's point, that you
20 want to get newer cars -- relatively newer cars on the
21 road to get that much more benefit than clearly -- a
22 thousand dollars, 1500 bucks isn't going to get you that
23 much further along, because a lot of folks just aren't
24 going to all of a sudden have another thousand bucks to
25 match this thousand and get a car like that. So I think

1 this issue of the price point, the thousand and the 1500,
2 has to be part of any analysis. I understand obviously it
3 draws down your funds that much quicker, which gets me to
4 the second point.

5 You pointed out on your last slide --

6 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Could I
7 add one -- something that we omitted is we actually have a
8 pilot program, voucher program where you can get,
9 depending on your income, up to \$4,000 back if you buy a
10 car that for non-low income people is four years or newer
11 and for low income people I think it's eight years or
12 newer. Not eight years newer than what you turned in, but
13 in other words four or eight from now. And that's being
14 done in the South Coast and San Joaquin Valley. And we're
15 just starting that up now. So we'll see what kind of
16 response we get to that. And that may shed some light on
17 your question.

18 BOARD MEMBER DE LA TORRE: So getting to the
19 funds, you pointed out that the -- what's the acronym?

20 EXECUTIVE OFFICER GOLDSTENE: EFMP.

21 BOARD MEMBER DE LA TORRE: -- that that ran out
22 after nine months and then that the CAP Program still had
23 money at the end of the year.

24 MR. FORD: That is correct.

25 BOARD MEMBER DE LA TORRE: Is there any way to

1 make these funds a little fungible and allow one to --
2 when one runs out, to be able to transfer funds from one
3 to the other to fill that gap so that we don't run out?

4 BUREAU OF AUTOMOTIVE REPAIR CHIEF WALLAUCH: We
5 actually did run out last year on both funds.

6 BOARD MEMBER DE LA TORRE: Oh, okay. I
7 thought -- I misunderstood. I thought --

8 BUREAU OF AUTOMOTIVE REPAIR CHIEF WALLAUCH:
9 Yeah. One fund ran quicker. There's a process
10 or logistics problem what bucket you put the car in. So
11 if a car doesn't have a test report, you automatically go
12 to the EFMP bucket because it doesn't require one. If it
13 does have a failed smog check, then it can go into the CAP
14 one. So it's kind of like a lottery is how those fall out
15 and which one of the buckets fill up first is the way it's
16 done right now.

17 BOARD MEMBER DE LA TORRE: Okay. I thought on
18 the slide that it showed that one had run out and the
19 other one hadn't.

20 But that gets to the point -- my final point,
21 which is, if we're only getting to 30 and 60 percent of
22 the goal with the budgeted amounts, that are being
23 depleted every year, then clearly we don't have enough
24 money in the fund to hit the target. So I think we all
25 need to think about what we do to be able to fund. If

1 it's a target at 100 percent, then we need to fund that
2 100 percent. We may not get there. But it can't be for
3 lack of funds if this is the methodology we're going to
4 use to get rid of these cars.

5 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: I think
6 you're absolutely right. There's no way we can hit that
7 100 percent target with the amount of money we have. But
8 I think given the situation right now, we're try to do two
9 things. One is we'd like to get smarter so that we can
10 target the dirtiest cars and therefore get more bang for
11 the buck that's spent. Second of all, on the EFMP
12 program, we need to get data so we can see how that
13 program is actually operating.

14 We did a -- BAR did a study in which some very
15 old cars that should have been scrappable were not
16 scrapped for various administrative reasons. And they
17 just checked on them a couple years later and most of them
18 were no longer there. So, you know, it could have the
19 situation where some of the dirtiest cars you don't want
20 to retire because they're going to die on their own.

21 And so getting more sophisticated how we spend
22 our money I think will -- and having a better database on
23 the second program will give us the information that would
24 allow us to go back and say, "We need this much more
25 money, because we've improved the program this much but we

1 still need more to meet the target." So that's kind of
2 our two-step strategy.

3 BOARD MEMBER DE LA TORRE: Thank you.

4 BOARD MEMBER RIORDAN: Madam Chair?

5 CHAIRPERSON NICHOLS: Yes.

6 BOARD MEMBER RIORDAN: Can I just ask one quick
7 question?

8 CHAIRPERSON NICHOLS: Yes, please.

9 BOARD MEMBER RIORDAN: I don't remember the
10 parameters of 2766. But could districts use any portion
11 of that for this program?

12 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes, I
13 believe they can.

14 BOARD MEMBER RIORDAN: Okay. That's a source of
15 money.

16 EXECUTIVE OFFICER GOLDSTENE: The districts have
17 run programs.

18 BOARD MEMBER RIORDAN: Is that what they used
19 perhaps?

20 EXECUTIVE OFFICER GOLDSTENE: Or 923.

21 BOARD MEMBER RIORDAN: Pardon me?

22 EXECUTIVE OFFICER GOLDSTENE: AB 923 moneys.

23 BOARD MEMBER RIORDAN: Okay. But I'm thinking of
24 2766 moneys, which is the additional money added to your
25 automobile registration. You know, it goes up to about

1 four dollars in some areas and two in others.

2 So I don't know what the parameters are, but it
3 has a potential.

4 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes, I
5 think that's some of the money they have used to run these
6 district-run programs in the past. It's just that they
7 have not -- our only point was not that they're not
8 valuable, but that the scope of them was a tenth of what
9 the scope of the state program is. That's why we focused
10 on the state program.

11 BOARD MEMBER RIORDAN: Right. Except some place
12 like South Coast that would be a significant amount of
13 money, I would believe, just based on the number of cars
14 that are registered.

15 CHAIRPERSON NICHOLS: Well, and again, if you
16 compare what's attained from this program versus many
17 other programs, it looks very attractive as a
18 cost-effective measure. So wherever there's money
19 available, we should be trying to push it in this
20 direction.

21 If there are no other Board comments, we have one
22 person signed up, Bill Magavern.

23 Bill, you can add to this conversation.

24 MR. MAGAVERN: Yes. As you know, Coalition for
25 Clean Air has been a strong supporter of smog check since

1 the start. I also note that smog check is something that
2 Mr. Goldstene and I worked on together when we were both
3 in our previous positions.

4 I thought that the presentations were excellent
5 in showing both why it's so valuable to pay very close
6 attention to vehicle repair and retirement, because the
7 emission reductions are so great, and also to show that
8 there are still more improvements that need to be made,
9 because we can still get a lot more emission reductions.
10 So I think it points to the importance of getting this
11 really good data and analysis that the staff and both
12 agencies are planning to do. And we look forward to
13 seeing that.

14 One informational point in response to
15 Dr. Sperling's comments. I don't think anybody has
16 pointed out these programs are already paid for by fees on
17 drivers. So not in the proportional to emission sense
18 that Dr. Sperling suggested. But I do think it's
19 important to note that there's no taxpayer money going
20 into these programs.

21 And then, also, when we talk about the vehicle
22 scrappage, I think it's important to leave open the
23 possibility that some people might not be replacing their
24 old car with another car. It may be that they'll be able
25 to get by with car pooling or car sharing or public

1 transit or going from two cars in the household to one.
2 So that we should be allowing the flexibility that people
3 could use the money for public transit or car sharing
4 programs or other ways besides going out and purchasing
5 another vehicle.

6 Thank you.

7 CHAIRPERSON NICHOLS: A question is, do they
8 actually have to buy another car to get the money? Not
9 the way the program works now.

10 EXECUTIVE OFFICER GOLDSTONE: No, they do not.

11 CHAIRPERSON NICHOLS: We just make assumptions
12 about what -- well, we try to find out what they're doing,
13 but we don't require them to go buy another car.

14 EXECUTIVE OFFICER GOLDSTONE: Right.

15 CHAIRPERSON NICHOLS: Thanks.

16 Okay. This is not a regulatory item. It was an
17 informational report, and it was a very needy
18 informational report. Really appreciate the amount of
19 work that is going into this program. I've heard it's
20 clearly worth it. And as you can tell from the
21 conversation, I think Board members have a lot of interest
22 and ideas. So if you could plan on checking back with us,
23 that would be great. Appreciate it.

24 Thank you.

25 All right. We've got another report here, also

1 focusing on vehicles, but this time trucks. So we're
2 going to hear a report on "Gear Up for Clean Truck Month."

3 Okay. For those of you who weren't following the
4 news, August was Clean Truck Month. And we are here to
5 talk a little bit about what was going on and what's going
6 to be happening in the future.

7 So the effort here is to try to increase
8 compliance and to be more effective in giving compliance
9 assistance with ARB's suite of diesel truck regulation.
10 These regulations are critical to reducing exposure to
11 toxic diesel particulate matter and towards providing some
12 important reductions in nitrogen oxide, which is a
13 precursor to both ozone and fine particles. All told,
14 emissions from diesel trucks contribute to cancer,
15 premature death, and other health problems, as we've
16 documented many times in the past.

17 "Gear up for Clean Truck Month" combined
18 compliance assistance and enforcement in the field for the
19 goal of reaching truck owners and operators at a critical
20 time as regulatory deadlines near. The campaign received
21 significant press coverage. And the feedback from most
22 stakeholders was that the effort was a success and that
23 similar efforts in the future are needed. I certainly saw
24 some evidence of that. And I think it was a terrific
25 turnaround really in the attitude of some of the people

1 that we have had the most difficult time communicating
2 with in the past. So I'm looking forward to hearing more
3 about this program.

4 Mr. Goldstene.

5 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
6 Nichols.

7 California's suite of in-use diesel fleet
8 regulations represents one of ARB's most important public
9 health initiatives. To realize the full benefits of these
10 regulations, we've been using all available resources to
11 maximize compliance.

12 Toward this end, we've placed great importance on
13 compliance assistance and outreach to owners and operators
14 of diesel vehicles. Last year we brought a group of staff
15 together just for this purpose and they've been
16 instrumental in working with industry as part of a
17 comprehensive effort to bring all affected fleets into
18 compliance.

19 Most recently, during the month of August, as
20 Chairman Nichols indicated, ARB launched the "Gear up for
21 Clean Truck Month" campaign to visibly demonstrate its
22 commitment to compliance with clean diesel requirements.

23 The campaign included roadside enforcement
24 combined with outreach and targeted media events. Local
25 area districts were invited to participate, and

1 coordination with the CHP, Department of Food and
2 Agriculture, and Department of Transportation contributed
3 to a very successful multi-agency effort. About 130 ARB
4 staff participated during the month, and we had plans for
5 similar events in the future.

6 More than 4,000 trucks of various model years
7 were inspected and staff distributed approximately 5,000
8 information packets. In general, high levels of
9 compliance were observed. And in particular, staff saw
10 that over 90 percent of the trucks required to meet last
11 January's first compliance date under the truck and bus
12 regulation were in compliance.

13 Now, Leisa Bush from our Air Pollution -- our
14 Mobile Source Control Division will provide an overview of
15 the month.

16 Leisa.

17 (Thereupon an overhead presentation was presented
18 as follows.)

19 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

20 SPECIALIST BUSH: Thank you, Mr. Goldstene.

21 Good morning, Chairman Nichols, members of the
22 Board. I want to thank you for the opportunity to present
23 an overview for our "Gear Up for Clean Truck Month"
24 campaign, which occurred in August.

25 As Chairman Nichols and Mr. Goldstene both

1 mentioned, ARB's commitment to full compliance was the
2 impetus behind this successful effort. And I'm pleased to
3 share an update on the campaign with you.

4 --o0o--

5 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
6 SPECIALIST BUSH: In today's presentation I will cover the
7 following topics:

8 First, the campaign's background and purpose.
9 That is why "Gear Up for Clean Truck Month" was created
10 and what we set out to achieve with the campaign.

11 Next I will describe the participants and
12 activities that were part of "Gear Up for Clean Truck
13 Month."

14 And then, lastly, I will share results and next
15 steps based on lessons learned from the campaign.

16 --o0o--

17 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
18 SPECIALIST BUSH: First a bit of background. In 1998 the
19 Board identified particulate matter as a toxic air
20 contaminant based on potential to cause cancer, premature
21 death, and other health problems. In response, the Board
22 has adopted a suite of in-use diesel fleet regulations
23 that represent the biggest public health initiative ARB
24 has undertaken to date.

25 California's comprehensive suite of diesel

1 regulations is at a critical point of implementation.
2 Recent past milestones included a reporting deadline for
3 rules affecting more than 200,000 fleets. And other
4 milestones are fast approaching, as many of the
5 regulations have yearly deadlines, many continuing through
6 2023.

7 --o0o--

8 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

9 SPECIALIST BUSH: Increased compliance assistance and
10 enforcement efforts are key to high compliance rates, a
11 level playing field and air quality improvement. And
12 these efforts do have the support of industry, equipment
13 manufacturers, air districts, environmental and
14 environmental justice groups. And we have received
15 positive feedback on our efforts thus far.

16 As one truck industry stakeholder put it, if you
17 don't know about the requirements, you haven't been
18 listening.

19 --o0o--

20 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

21 SPECIALIST BUSH: Increased compliance begins with the
22 regulated community knowing and understanding what it is
23 they need to do in order to comply. Many of those
24 regulated by ARB's diesel truck rules are small or
25 individual owner-operators. In reaching these small

1 businesses, it's critical to ensuring full compliance.

2 To that end, effective compliance assistance and
3 outreach efforts foster awareness within the regulated
4 community, help build strategic partnerships with
5 stakeholders, and complement our traditional enforcement
6 efforts.

7 --o0o--

8 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

9 SPECIALIST BUSH: Clean Truck Month was a multi-faceted
10 effort coordinated between several ARB divisions and
11 offices, and also included our air district partners. As
12 Mr. Goldstene mentioned, just over 130 ARB staff - that's
13 nearly ten percent of ARB's total work force - actively
14 participated in the campaign. Dozens of others provided
15 logistical and administrative support.

16 In addition to internal participants, external
17 partners included the California Highway Patrol,
18 California Department of Food and Agriculture, and
19 Caltrans.

20 --o0o--

21 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

22 SPECIALIST BUSH: That's a quick overview of how Clean
23 Truck Month came about and who participated to make the
24 campaign a reality.

25 Next I will describe the activities associated

1 with Clean Truck Month, which are broken into three
2 categories: Compliance assistance and outreach,
3 enforcement, and media activities.

4 --o0o--

5 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

6 SPECIALIST BUSH: This map indicates 52 of the locations
7 where Clean Truck Month activities occurred up and down
8 the state, reaching between the borders of Oregon and
9 Mexico, and covering regions known to have air quality
10 challenges. Some locations had multiple efforts -- or,
11 excuse me -- events and visits. And the locations are
12 categories here based on the type of the activity; that
13 is, enforcement compliance assistance, training, and a
14 combination of those efforts.

15 --o0o--

16 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

17 SPECIALIST BUSH: The first category of Clean Truck Month
18 activities, compliance assistance and outreach, included
19 the development of campaign materials and partnering with
20 enforcement teams in the field. Activities also included
21 providing compliance assistance and training at locations
22 throughout the state.

23 --o0o--

24 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

25 SPECIALIST BUSH: First, the development of the materials,

1 which included the Clean Truck Month information packet
2 seen here, which you should also have in your packets.

3 --o0o--

4 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

5 SPECIALIST BUSH: Information packets provided in both
6 English and Spanish were handed out statewide. The
7 purpose of these packets was to provide information in
8 easy-to-understand bite-size pieces. We included
9 information on only the most pressing issues as well as
10 advertisements designed to inform the regulated community
11 on where to go to get additional information.

12 Again, we provided this information in Spanish
13 and English.

14 --o0o--

15 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

16 SPECIALIST BUSH: Our TruckStop website is a one-stop shop
17 for regulatory information, funding sources, and
18 compliance assistance. We've been working over the past
19 year to simplify this site and highlight the issues that
20 are most important at any given time.

21 One challenge that we have had is simply getting
22 the information out to our owners and operators that the
23 TruckStop website exists. Therefore one of the documents
24 we put into the information packet was an advertisement on
25 where they can go, what information can be found on

1 TruckStop.

2 --o0o--

3 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

4 SPECIALIST BUSH: Additionally, web resources were created
5 to supplement our boots-on-the-ground efforts and included
6 the creation of an enforcement page, which lists
7 enforcement actions and penalties. A Clean Truck Month
8 page was also developed that includes an on-line version
9 of the information packet as well as useful links to
10 training, frequently asked questions and videos, filter
11 information, and funding opportunities.

12 --o0o--

13 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

14 SPECIALIST BUSH: In addition to developing materials to
15 assist the regulated community, compliance assistance and
16 outreach staff partnered with our enforcement team,
17 accompanying them at various inspection sites around the
18 state.

19 --o0o--

20 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

21 SPECIALIST BUSH: Other outreach activities included
22 providing regulatory assistance at locations where
23 enforcement activities were not occurring, such as
24 agricultural inspection sites and dealerships. At these
25 locations staff handed out compliance information, and

1 on-site regulatory experts were on hand to explain
2 requirements and funding opportunities to drivers.

3 With additional staff in the field, there was a
4 visual impact on those who drove past these different
5 events. We received direct reports that truckers using
6 Twitter, CB radio, and smartphone apps were spreading the
7 word that ARB enforcement teams were inspecting vehicles.

8 --o0o--

9 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
10 SPECIALIST BUSH: The next category, enforcement
11 activities, involved ARB enforcement teams setting up
12 inspection sites around the state.

13 --o0o--

14 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
15 SPECIALIST BUSH: These locations included the CHP
16 commercial vehicle inspection facilities and weigh
17 stations.

18 --o0o--

19 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
20 SPECIALIST BUSH: Border crossings.

21 --o0o--

22 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
23 SPECIALIST BUSH: Truck stops.

24 --o0o--

25 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

1 SPECIALIST BUSH: Roadside locations.

2 --o0o--

3 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

4 SPECIALIST BUSH: Rest stops.

5 --o0o--

6 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

7 SPECIALIST BUSH: And port facilities.

8 --o0o--

9 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

10 SPECIALIST BUSH: At these location, ARB inspectors worked
11 with CHP officers to pull in trucks and perform one or
12 more types of vehicle inspections. These included 12
13 different inspection categories, highlights of which are
14 included here.

15 --o0o--

16 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

17 SPECIALIST BUSH: This slide shows our enforcement team
18 conducting two different smoke inspections as well as an
19 emission control label inspection.

20 --o0o--

21 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

22 SPECIALIST BUSH: Moving to the third components of
23 compliance assistance and outreach activities media. To
24 reach as large an audience as possible, ARB's Office of
25 Communications worked with media outlets across the state.

1 Successful media days were held in Fresno; Otay Mesa,
2 which is at the California/Mexico border; and the Port of
3 Oakland.

4 The events received significant coverage that
5 generated 37 news stories. Additionally, public service
6 announcements were given to radio stations to air, and ARB
7 experts went on truck or satellite radio channels to talk
8 about the campaign.

9 In your Board member packet you'll find a summary
10 of these activities.

11 --o0o--

12 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

13 SPECIALIST BUSH: These are just three of the headlines
14 generated by Clean Truck Month. And now we'll see a short
15 montage of Clean Truck Month television news stories that
16 aired across the state.

17 (Whereupon a video presentation was made.)

18 --o0o--

19 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

20 SPECIALIST BUSH: So again, the media coverage was quite
21 substantial and provided a heightened visibility to our
22 campaign Clean Truck Month activities.

23 Besides making a significant impact on the
24 regulated community and demonstrating that ARB takes
25 compliance very seriously, two more positive results came

1 from the campaign.

2 --o0o--

3 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

4 SPECIALIST BUSH: The first of these was increased
5 collaboration and new partnerships, both within ARB and
6 among outside agencies. Internally the collaboration
7 between so many different divisions provided a deeper
8 understanding of things such as enforcement functions and
9 also how the regulated community perceives us, ARB,
10 through our enforcement efforts.

11 Working relationships between ARB and air
12 districts with enforcement MOUs were invigorated as a
13 result of Clean Truck Month.

14 Additionally, ARB formed new alliances and
15 strengthened existing relationships with sister agencies.
16 These efforts included: Working with CDFA to conduct
17 compliance assistance at agricultural inspection sites,
18 collaborating with Caltrans to get Clean Truck Month
19 information on freeway signs, and reinstating biannual
20 coordination meetings with CHP. So we focus here on our
21 internal and external partnerships, but additional
22 benefits have been realized as a result of increased
23 collaboration. For example, the California Trucking
24 Association recently took a pro-compliance position at
25 their September Environmental Policy Committee meeting,

1 assuring future compliance with ARB to achieve full
2 compliance -- excuse me -- assuring their future
3 cooperation in achieving our full compliance.

4 --o0o--

5 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

6 SPECIALIST BUSH: So measuring the success of our
7 enforcement and outreach efforts on such a large
8 population, well over 200,000 affected entities, is
9 challenging. We learned a lot from Clean Truck Month and
10 are looking at new and improved methods for gauging our
11 success, even if not every Clean Truck Month activity or
12 effort can be measured quantitatively.

13 For instance, in the future we may be able to
14 establish various web portals unique to a specific event
15 or information source. When someone opens the TruckStop
16 website, for example, via that portal, we can track the
17 effectiveness of the event or the outreach material.

18 Also we learned that data sharing among divisions
19 allows us to better examine the impacts of compliance
20 assistance and enforcement efforts on one another.

21 --o0o--

22 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

23 SPECIALIST BUSH: Next I will talk briefly about some of
24 the statistics of Clean Truck Month. First a few
25 compliance assistance and outreach figures.

1 As Mr. Goldstene mentioned in his introduction,
2 approximately 5,000 information packets were distributed
3 across the state in both English and Spanish. August
4 e-mail web hit and call trends all showed increases from
5 June and July.

6 --o0o--

7 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
8 SPECIALIST BUSH: This slide is the total web hits. The
9 total number of web hits to the TruckStop home page in
10 August, which is the orange line, was more than 11,000, up
11 70 percent from July, the preceding month.

12 This slide also shows the total number of web
13 hits to ARB's Truck and Bus Program page in June, July and
14 August. These too indicated upward trends.

15 --o0o--

16 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
17 SPECIALIST BUSH: For the call center, nearly 2400 calls
18 were handled by our Diesel Hotline in August, up 63
19 percent from July.

20 Both the web hit and call trends indicate that
21 the campaign was successful in driving people to our
22 Diesel Hotline and to TruckStop, two primary sources of
23 diesel rule compliance assistance information.

24 --o0o--

25 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

1 SPECIALIST BUSH: I'll talk here about statistics
2 pertaining to enforcement. There's been speculation as to
3 how many fleets are in compliance with ARB diesel truck
4 regulations. And many people have anticipated Clean Truck
5 Month preliminary compliance rates. So a few figures.

6 More than 4,000 vehicles were inspected during
7 Clean Truck Month. Data collected so far indicates an
8 overall compliance rate of 90 percent with all ARB
9 heavy-duty diesel regulations.

10 When we looked specifically at those inspected
11 for compliance with the truck and bus regulation, staff
12 observed that among the trucks having to meet last
13 January's initial compliance date the compliance rate was
14 approximately 90 percent.

15 One thing to note, these rates come from a
16 limited sample size. Vehicles selected for inspections
17 were those that had the greatest potential to be out of
18 compliance with recent deadlines.

19 While a majority of the inspected vehicles were
20 deemed compliant, we still have work to do to achieve full
21 compliance, as assumed by the adopted rules. Approaching
22 compliance deadlines means that we must remain vigilant in
23 our efforts.

24 --o0o--

25 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

1 SPECIALIST BUSH: As you've heard, Clean Truck Month was a
2 large scale resource intensive effort. Evidence shows
3 that we were definitely noticed. However, we also learned
4 that there may be ways to better leverage our resources.
5 For example, future campaigns can be targeted. This
6 targeting might be by geographical areas where compliance
7 rates are lower, based on upcoming deadlines, focused at
8 locations to reach either out-of-state or in-state
9 vehicles. Or we may target vehicle owner-operators or
10 various communities that need increased awareness of
11 regulatory requirements.

12 --o0o--

13 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

14 SPECIALIST BUSH: This slide presents Clean Truck Month
15 compliance rates by program and geographical region and is
16 an example of data we can use to better target enforcement
17 and compliance assistance efforts.

18 --o0o--

19 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION

20 SPECIALIST BUSH: "Gear Up for Clean Truck Month" may be
21 over, but the impacts and the momentum are here to stay.
22 ARB continues its aggressive drive to provide compliance
23 assistance and outreach; and activities planned through
24 December include an informational mailer to more than
25 200,000 trucking businesses, contracts for pump toppers to

1 be placed at truck stops throughout California, 25
2 training courses across the state, continued visits to
3 border agricultural inspection stations, and of course
4 continued partnership with enforcement teams.

5 This slide shows three recent and planned events.
6 Last month, ARB sponsored a border summit in Otay Mesa,
7 which reached association from both sides of the U.S. and
8 Mexican borders.

9 And also just yesterday enforcement in Office of
10 Communication staff conducted a strike force event held at
11 the Port of Los Angeles per the Port of Los Angeles
12 invitation. This event also included pretty good media
13 coverage. We're getting some results that are coming in
14 today.

15 And then, additionally, ARB has been invited by
16 Imperial County to conduct Clean Truck Month types of
17 events at their location as well.

18 --o0o--

19 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
20 SPECIALIST BUSH: ARB's commitment to full compliance
21 includes working with various communities to provide
22 targeted compliance assistance.

23 --o0o--

24 MOBILE SOURCE CONTROL DIVISION AIR POLLUTION
25 SPECIALIST BUSH: This concludes my update on the "Gear Up

1 for Clean Truck Month" campaign. On behalf of all of the
2 participants who made this happen, thank you again for the
3 opportunity to share the highlights of this campaign.

4 CHAIRPERSON NICHOLS: Thank you for the
5 presentation.

6 Again, there's no action being requested of the
7 Board. But we do have two people who've signed up to
8 comment on this. The first is Bill Magavern.

9 Bill, it's just great to have the Coalition for
10 Clean Air here, really.

11 MR. MAGAVERN: Thanks. It's great to be here.

12 And I just want to congratulate ARB on a
13 successful implementation of the diesel rule. It's a
14 challenging outreach and enforcement situation. And I
15 think the effort on Clean Truck Month was excellent.
16 Ninety percent compliance I think is pretty good for
17 August. And of course we need to continue to drive to get
18 to 100 percent.

19 Thanks.

20 CHAIRPERSON NICHOLS: Thank you.

21 Chris Shimota from the California Trucking
22 Association.

23 Good morning.

24 MR. SHIMOTA: Madam Chair, I'd like to first
25 acknowledge the great work that your staff is doing with

1 limited resources at their disposal on this campaign; and
2 especially single out the Outreach and Enforcement
3 branches for their efforts on Clean Truck Month.

4 I can't say enough positive things about how open
5 and available both branches were to the regulated
6 community during this month and actually throughout the
7 last several months. And I look forward to continuing and
8 strengthening that working relationship.

9 And I'd also like to take a second to note, what
10 I find to be the most significant part of this report
11 today is the high level of compliance that your staff
12 found out in the field from the trucking industry. And I
13 think that that's a testament to the fact that the
14 overwhelming majority of the industry is stepping up and
15 investing billions in clean equipment that will contribute
16 to cleaner air.

17 So that being said, I'd like to share with the
18 Board something that the owner of a large ag carrier in
19 Yolo County told me earlier this year about these diesel
20 regs. So it's no secret that trucking is a very highly
21 regulated industry. And you wouldn't believe what it
22 takes to just keep a truck operating on the road every
23 single day. And this gentleman who's been in the business
24 his entire life told me this past summer, "You know, these
25 other rules and regulations are tough. Don't get me

1 wrong. But these ARB rules are a game changer for the
2 industry." And the reason he says this is that he and
3 countless other companies out there are making substantial
4 business investments at the direction of this body.

5 And I can't tell you how many times I've heard
6 the phrase "leveraged to the hilt" in the past couple of
7 months. But the challenge extends beyond just the
8 financial side. There's a significant investment of
9 man-hours as well that goes into figuring out compliance
10 and actually going through the mechanics of sourcing
11 equipment, making sure that your reporting is correct and
12 all the other stuff that goes into making sure that you're
13 up to date with these rules.

14 So I'd like to just really reinforce the fact
15 that the industry out there is very serious about
16 compliance. They're taking compliance -- you know, it's
17 basically a matter of their survival as a business right
18 now, ensuring that they're up on compliance and ensuring
19 that the Board is actually doing their part to make sure
20 that their investments are not going to waste.

21 So I'd like to just talk for a second about the
22 other side, where unfortunately we do have a small but
23 determined minority of bad actors out there who really
24 have no intention of ever complying with these rules. And
25 that's not just this particular set of rules but a lot of

1 the rules that the trucking industry deals with on a daily
2 basis. And that these bad actors are in direct daily
3 competition for business with the good actors out there.

4 So I'd urge the members of the Board to recognize
5 the importance of ensuring that the companies who have
6 stepped up and have put their very livelihoods on the line
7 to invest in greener equipment are given a level playing
8 field and not made to compete with the bad actors.

9 Because in the harsh reality of the market that these guys
10 do business in, that's a losing battle for those who are
11 complying. And I know it was not the Board's intent to
12 give a competitive advantage to those who don't wish to
13 comply.

14 And just really quickly I'd like to mention that,
15 as was said in the presentation, CTA did approve a
16 pro-compliance position this past summer. And that's not
17 just, you know, we're going to say that we're
18 pro-compliance and then walk away from the table. We
19 actually do have a round of policy recommendations that
20 we're going to be bringing to your staff to work on. And
21 so we're looking forward to that effort. It's going to
22 take a lot of collaboration and creativity to make sure
23 that this program works effectively for our stakeholders.

24 So thank you very much for the time.

25 CHAIRPERSON NICHOLS: Well, thank you.

1 Before you step away, I guess I had two things.
2 First of all, just a question.

3 Do we have a hotline where people can report, for
4 example, if there is a situation where you know a
5 competitor is undercutting you and not complying with the
6 rules?

7 We do. So we have the ability that we could do a
8 more targeted, focused kind of enforcement activity if we
9 needed to do that. Great.

10 The other thing is, I want to compliment you
11 back, because I agree with you that the industry has
12 really embraced the necessity of compliance. And once the
13 rules came into effect, we've seen major efforts and
14 coordination and education of the members.

15 Believe me, we didn't go into regulating on-road
16 trucks lightly. It was after we pretty much regulated
17 everything that there was that we could control in order
18 to try to meet our needs to get the pollution reductions
19 to meet health standards. The reason for that is exactly
20 as you've described. It's a very, very diverse, very
21 complicated industry where you're dealing with different
22 sizes of businesses and people scattered all over, and
23 it's not been easy to come up with a set of regulations
24 that would work. But we very much appreciate the fact
25 that the industry has really become a partner in trying to

1 make these regulations work. So I want to thank you for
2 coming today and for all the work.

3 MR. SHIMOTA: Sure. And we appreciate that. And
4 we definitely hope to bring some of the expertise that we
5 have in truck enforcement to the current efforts here. So
6 we look forward to working on that.

7 CHAIRPERSON NICHOLS: Thank you.

8 All right. That concludes this item. Again, it
9 was an informational item.

10 We have one additional informational item before
11 us this morning. And that is the update on where we are
12 with the Cap-and-Trade Regulation. So we'll just give
13 everybody a minute to change places. People can stretch.

14 Would we like a five-minute break? People want a
15 five-minute break?

16 Okay. We'll take a five-minute break. Really
17 five minutes though.

18 (Whereupon a recess was taken.)

19 CHAIRPERSON NICHOLS: Okay, ladies and gentlemen.
20 Five minutes goes by very quickly and we're ready to
21 resume.

22 The last item on today's agenda is an update on
23 status of the Cap-and-Trade Program. Last month the staff
24 was asked to come back this month to discuss their
25 progress on the issues of resource shuffling and to

1 provide a final update on program readiness prior to the
2 first auction in November.

3 Recall that some stakeholders had provided
4 feedback that uncertainty about the resource shuffling
5 provisions in the regulation has the potential to
6 negatively affect energy markets and the reliability of
7 electricity supply. In response to those concerns, the
8 Air Resources Board announced that it would not enforce
9 the resource shuffling attestation requirement during the
10 first 18 months of the program.

11 Further, ARB staff and the Emissions Market
12 Assessment Committee, or EMAC as we call it, were asked to
13 consider how to provide additional certainty in how we
14 address electricity leakage risk. I understand that this
15 topic provided for a lengthy discussion at the public
16 meeting of EMAC that was held on September 24th. And
17 today our staff is coming back with a recommendation for
18 how to respond.

19 Over the last month, the Board has also been
20 asked to provide additional certainty to make sure that
21 allowance prices will stay reasonable - some form of price
22 containment. I know that this Board has said on many
23 occasions that we would not allow prices to go above a
24 level that we would consider to be unreasonably high. And
25 the program already has elements that will help to avoid

1 high prices. But I also understand that the staff has
2 done some additional work and has some recommendations
3 about how to move forward in a way that will provide more
4 certainty to the market on this issue.

5 So with that, I'd like to ask Mr. Goldstene to
6 introduce this item.

7 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
8 Nichols.

9 In September, we promised that we would report
10 back to the Board on our efforts to provide greater
11 clarity to electricity markets about the definition of
12 resource shuffling in our rule. Over the past month,
13 staff has worked with our economic advisory team and the
14 investor-owned and publicly-owned utilities on that
15 clarification.

16 At our EMAC meeting on September 24th that you
17 mentioned about resource shuffling, there was also a
18 discussion of price containment features. Consequently,
19 we'll also provide an update to the Board on that issue.

20 Additionally, staff will discuss the features
21 available in the second release of the Compliance
22 Instrument Tracking System, or CITS, and our efforts to
23 ensure all systems are ready to go for the auction in
24 November.

25 With that, I'll ask Matt Botill from our climate

1 group to begin the staff presentation.

2 (Thereupon an overhead presentation was presented
3 as follows.)

4 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

5 Thank you, Mr. Goldstene.

6 Good morning, Chairman Nichols and members of the
7 Board.

8 Today we will provide an update on our efforts to
9 address resource shuffling and we will review our
10 implementation activities, focusing on system readiness.

11 --o0o--

12 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

13 The Cap-and-Trade regulation was originally
14 adopted by the Board in October 2011. In Resolution
15 11-32, the Board directed staff to work with stakeholders
16 to investigate issues and to consider potential
17 improvements to the regulations. Since that time, staff
18 has continued to work with stakeholders to address the
19 remaining issues. The first part of this presentation
20 will focus on this continuing work.

21 Clean-up amendments were adopted by the Board in
22 June and took effect at the beginning of September.

23 Starting on January 1 of this coming year covered
24 entities will be responsible for the greenhouse gases they
25 emit.

--o0o--

1
2 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL: At
3 the September 20th Board meeting staff committed to return
4 to the Board with a recommendation on how we could provide
5 greater certainty to electricity markets by providing
6 clarity and specificity about resource shuffling.

7 Resource shuffling includes certain activities
8 that result in emissions leakage in which low emitting
9 resources are imported to substitute for high emitting
10 resources in order to reduce a compliance obligation.

11 Some stakeholders have provided feedback that
12 uncertainty about the resource shuffling provisions in the
13 regulations has the potential to negatively affect energy
14 markets and the reliability of electricity supply.

15 In response to these concerns, ARB stated that it
16 would not enforce the resource shuffling attestation
17 requirement during the first 18 months of the program.

18 In consideration of stakeholder comments at last
19 month's EMAC meeting and ongoing work with utility and
20 marketer groups as well as individual covered entities,
21 staff has been developing a proposed guidance document.
22 We are continuing to work with these groups as we develop
23 the final guidance language.

24 The most significant potential for resource
25 shuffling involves substitution of electricity from lower

1 emission resources for electricity produced at high
2 emission resources that do not meet the emissions
3 performance standard developed by the California Energy
4 Commission and the California Public Utilities Commission
5 pursuant to Senate Bill 1368. These resources consist of
6 a small number of out-of-state generating facilities which
7 California utilities have an ownership share or a
8 long-term contract that has not yet expired.

9 Staff's proposed to provide guidance to the
10 effect that if importers divest themselves of the
11 resources, it will not be resource shuffling.

12 In contrast, if they merely divert these
13 resources by selling off the electricity or assigning a
14 long-term contract to a third party, that would clearly be
15 specified in guidance as resource shuffling.

16 --o0o--

17 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

18 Along with providing specifics about what is
19 resource shuffling, staff proposed guidance that will
20 identify safe harbor activities that are not resource
21 shuffling. These safe harbors are activities that result
22 in changes in what electricity is imported to California.
23 But they are not motivated by an intent to avoid a
24 compliance obligation.

25 For example, changes in imports needed to

1 accommodate the renewable portfolio standard requirements
2 are not resource shuffling; nor is compliance with state
3 or federal laws or regulations.

4 Retirement or divestiture of resources or
5 expiration of contracts is not resource shuffling.

6 Changes in imports due to transmission
7 constraints or due to emergency situations do not
8 constitute resource shuffling.

9 Importantly, short-term trading activity, which
10 is the type of trading done in the California ISO market
11 or CISO market is not resource shuffling.

12 --o0o--

13 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL: In
14 situations where resource shuffling has occurred, ARB will
15 take action.

16 There are a range of possible enforcement actions
17 that could occur depending on the severity of the
18 reshuffling. These could include monetary penalties or
19 environmental remediation or both.

20 In our work with the California utilities and
21 marketers, we understand that they too recognize that
22 certain activities can clearly be recognized as resource
23 shuffling. Staff believes that by providing clear
24 guidance, we can more effectively deter resource
25 shuffling, limiting any necessity for enforcement.

1 Staff's proposed next steps include:

2 First, providing guidance on both safe harbors
3 and on what is prohibited under the resource shuffling
4 definitions; and

5 In addition, proposed regulatory amendments to
6 the resource shuffling language to be considered by the
7 Board in mid-2013.

8 --o0o--

9 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

10 Price containment, or ensuring that allowance
11 prices will not exceed specified levels, has been a key
12 design objective of the Cap-and-Trade Program since its
13 inception.

14 The program design includes important features,
15 like an allowance price containment reserve with
16 allowances that are offered for sale four times a year at
17 fixed price, a multi-year compliance period, and banking
18 of allowances for an unlimited period of time.

19 Offsets are also an important element of price
20 containment in the Cap-and-Trade Program. ARB has already
21 adopted four offset protocols and has announced plans to
22 develop protocols for rice straw and coal mine methane.

23 ARB will continue to pursue additional protocols
24 that can provide high quality offsets.

25 Further, we must pursue cost effective ways to

1 address climate change over the long term, like carbon
2 capture and sequestration. This includes developing the
3 necessary regulatory framework and quantification
4 methodologies to appropriately account for emission
5 reductions.

6 In resolutions 10-42 and 11-32, the Board
7 recognized the importance of achieving emission
8 reduction's cost effectively. Recent work by the EMAC has
9 highlighted that these cost containment features do not
10 guaranty that allowance prices will not exceed specified
11 levels. Although this Board has been clear that it would
12 intervene to prevent allowance prices from becoming
13 unacceptably high, with the November auction approaching
14 additional clarity regarding ARB's commitment to contain
15 allowance prices has been requested to ensure that the
16 market can operate effectively.

17 In response, we are proposing that the Board
18 reaffirm its policy that, while maintaining the emission
19 reduction goals of the program, ARB should ensure that
20 allowance prices do not exceed the highest priced tier of
21 the Allowance Price Containment Reserve during the 2013 to
22 2020 period. Staff proposes to develop one or more
23 mechanisms to achieve this policy objective and to return
24 to the Board with a regulatory proposed by mid-2013.

25 Let me now turn to implementation and readiness.

1 --o0o--

2 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL: As
3 discussed last month, the basic elements of the
4 Cap-and-Trade system include an allowance tracking system,
5 called CITS, which is where entities hold allowances and
6 offsets; and an auction platform where bids are received
7 and processed. We reported on the status of these
8 components last month.

9 Since then, we have continued to work with our
10 contractors to finalize and test all program components
11 and features as well as how they work together.

12 --o0o--

13 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

14 The initial CITS module for registration was
15 released on July 9th. The CITS registration module
16 includes the components needed to manage an account up to
17 the point of the account holding compliance instruments.

18 The second CITS release, which includes the
19 transfer module, was released on October 8th. The
20 transfer module allows ARB to create and distribute
21 allowances and offsets.

22 For participants buying and selling compliance
23 instruments, the transfer module also includes the
24 components needed to move instruments between accounts.

25 Additional components to add account

1 representatives and viewing agents were also included in
2 this release.

3 --o0o--

4 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

5 With the release of the transfer modules,
6 entities are now able to hold allowances in their
7 accounts. ARB allocated allowances to utilities on
8 September 14th and placed these allowances in the utility
9 accounts on October 8th.

10 As required under the regulation, ARB will
11 allocate allowances to industrial entities on November
12 1st.

13 --o0o--

14 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL: We
15 are also continuing to prepare for the first auction. On
16 September 14th, ARB released the auction notice for the
17 November 14th auction. Applications in the auction
18 platform for the November auction closed on October 15th.

19 The financial services administrator is now
20 conducting the "know your customer" due-diligence checks
21 on entities that have applied to participate in the
22 auction.

23 The auction will take place from 10 a.m. to 1
24 p.m. on November 14th, in which ARB will be auctioning at
25 least 21.8 million vintage 2013 allowances and 39.45

1 million vintage 2015 allowances.

2 ARB anticipates posting auction results on
3 November 19th. This posting will begin the settlement
4 process in which entities pay for the allowances won at
5 auction. ARB will transfer allowances into accounts once
6 all payments are received.

7 --o0o--

8 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL:

9 Let me now discuss our market monitoring efforts,
10 which is a critical element of the Cap-and-Trade Program.

11 ARB has contracted with an independent market
12 monitor to monitor the structure, conduct, and performance
13 of the Cap-and-Trade Program. The market monitor will
14 review auction bidding activity and work with ARB to
15 identify any bidding or trends of concern that may
16 indicate manipulative or anticompetitive bidding behavior.

17 The market monitor will also review activity in
18 the secondary market.

19 ARB is also being advised on the longer term
20 analysis by the EMAC, which includes economists from
21 California universities. The EMAC's first public meeting
22 was held on September 24th and included discussion of
23 linkage, resource shuffling, and information sharing.

24 In addition, the market simulation group, which
25 held a stakeholder meeting in June, is under contract with

1 ARB to conduct simulations that will stress test the
2 regulation.

3 ARB continues to have ongoing discussions to
4 ensure coordination with the California Independent System
5 Operator, the California Attorney General's Office, the
6 Commodity Futures Trading Commission, the Federal Energy
7 Regulatory Commission, and the Federal Department of
8 Justice in monitoring and enforcing against abuse in the
9 allowance and offset markets and related energy markets.

10 ARB is also exploring information sharing
11 agreements with market exchanges to obtain more detailed
12 data on secondary market transactions to enhance our
13 market monitoring efforts.

14 --o0o--

15 CLIMATE CHANGE PLANNING SECTION STAFF BOTILL: In
16 summary, ARB is ready to launch the Cap-and-Trade Program
17 and conduct an auction on November 14th in advance of the
18 beginning of compliance obligations on January 1. We will
19 be closely monitoring the market and will provide the
20 Board with periodic program status updates after the
21 auction and throughout 2013.

22 Thank you.

23 CHAIRPERSON NICHOLS: Thank you.

24 Before we turn to any kind of public comment, I
25 just want to remind folks that, although we do have a

1 resolution that has been prepared for us that gives some
2 additional direction to the staff, this is not a
3 regulatory item. We're not making any changes in the
4 actual underlying rule at this time. But I do think it's
5 important that we both take stock of where we've gotten to
6 so far and give some sense of what's ahead.

7 So the first thing I want to do is just to
8 acknowledge that it's been a tremendous effort to get us
9 to the point where we actually are ready from a technical
10 operational perspective to launch a greenhouse gas
11 emissions auction of this kind. And I really want to
12 commend everybody who's been involved in making that
13 happen.

14 I also know that we are embarking on something
15 that requires a different kind of communications perhaps
16 than ARB has ever had to do. Because when you're working
17 in an environment where you're moving markets literally by
18 things you are involved in, it's very important that we be
19 clear and also that we be -- that we be and be seen to be
20 vigilant in overseeing the monitoring side of the auction.

21 So I want to make sure that everyone who's
22 following this understands that we do have staff assigned
23 and trained to do this kind of work as well as a respected
24 group of experts who are serving as a market monitor. And
25 we think it's very important that we from the very outset

1 are prepared to take strong enforcement action if need be.

2 I also think it's important that we begin to lay
3 some of the groundwork for the future, because the first
4 auction is only the first auction. It's one of many to
5 come, and part of a long series of actions that are going
6 to need to take place between now and 2020 and perhaps
7 beyond if we're going to be successful.

8 So I think it's important that we also make it
9 clear that we intend and hope for this program to play a
10 part in actually encouraging and providing incentives for
11 individuals and companies to pursue new technologies that
12 can play a part in achieving the goals. In other words,
13 the goal of a Cap-and-Trade program is not to just keep
14 the players that are there in place doing the same old
15 thing and admitting less. It's to actually open up
16 opportunities for people to try new things that could then
17 become part of the transformation that ultimately will
18 have to take place in the way we use energy, in the way we
19 move ourselves around, if we're going to success in
20 achieving our goals.

21 One of the areas that was mentioned briefly that
22 I just want to highlight because I know it's becoming an
23 increasing conversation topic is the issue of carbon
24 sequestration. And I know that the Board is going to be
25 hearing more about this in the year to come. But I just

1 want to flag the fact that we're aware of the fact that we
2 are going to need to play a part in establishing the kind
3 of protocols that are going to be necessary if carbon
4 sequestration is actually going to work in California and
5 become a cost effective technology.

6 It's also I think important to recognize that, as
7 our Governor has reminded us from time to time, that we
8 need to be moving towards our greenhouse gas reduction
9 goals in ways that also benefit consumers in California
10 and that help to make sure that we're going to fulfill the
11 promise of AB 32, that California businesses and
12 industries and manufacturers will not only remain
13 competitive but in fact become more competitive as a
14 result of actions that are being taken under AB 32.

15 So I think it's going to be important that we -
16 and I think the resolution helps provide some of this -
17 that we make sure that as we look towards the next
18 compliance periods, that we're doing everything we can to
19 assure smooth transition, that we're continuously
20 monitoring the impacts of the program and evaluating it
21 not just from a sort of a passive perspective of, "Okay,
22 is everything okay? Well, I guess we can check that box,"
23 but really looking to implement a kind of a continuous
24 improvement program with respect to how the program is
25 operated.

1 And I just wanted to kind of lay those general
2 thoughts out there before we hear from the public, because
3 I know that we are all a little bit on edge here as we
4 approach the actual date when the, you know, switch is
5 flipped.

6 Of course, Edie Chang has already, you know, done
7 the first task of actually sitting in her office and
8 creating allowances. And we have photos of her doing it.
9 There are actual allowances sitting in people's compliance
10 accounts, if they're utilities at least, in their holding
11 accounts. And so this is actually not something that's
12 about to happen. It is already under way. It's happening
13 even as we speak.

14 But every step along the way is a new opportunity
15 for people to wonder and be concerned. And our job is
16 really to try to I think send the strongest possible
17 signals that we can that we are determined to be
18 monitoring every step of this program and making sure that
19 it's achieving the results that we intend for it.

20 So with that, I'm going to call up witnesses.
21 I'll just call your names in groups of three. And we'll
22 try to move through this quite quickly.

23 So we'll start with Erica Morehouse, Emma Payne,
24 and Dorothy Rothrock.

25 MS. MOREHOUSE: Good morning.

1 CHAIRPERSON NICHOLS: Good morning.

2 MS. MOREHOUSE: My name's Erica Morehouse. I'm
3 an attorney with Environmental Defense Fund. And thank
4 you for the opportunity to comment this morning.

5 I have two items to share.

6 The first is that yesterday EDF released a report
7 about lessons learned from the EUETS Program. And a fact
8 sheet on the importance of this report to California has
9 been provided to the clerk and should be included in your
10 packet.

11 The report, designed by our international experts
12 at EDF, shows that a Cap-and-Trade program is an effective
13 tool for reducing emissions while safeguarding economic
14 growth and stimulating low carbon investment. While the
15 EU faced several challenges in beginning its program,
16 California has been able to learn from this example and
17 effectively design its own program to avoid these issues.

18 It's notable that -- that gets me to my second
19 point. It's notable that in terms of allowance prices,
20 the EU has faced issues with prices that some consider to
21 be too low rather than high prices. The EU example is one
22 of several reasons that EDF believes the price containment
23 reserve and other price containment mechanisms within
24 California's program will be sufficient to keep prices in
25 check.

1 In 2011 EDF conducted economic modeling that
2 found that as designed there is an 85 percent chance that
3 the price containment reserve will not be needed at all;
4 and that even if needed, it's unlikely that the reserve
5 would be exhausted.

6 Even if only half of the allowable offsets are
7 available, there's only one-tenth of a percentage chance
8 that the prices will rise above \$40 per ton, according to
9 our economic modeling.

10 We note that in today's resolution staff are
11 instructed to look into developing a new price containment
12 mechanism. While we believe this may be unnecessary, we
13 urge the Board to safeguard the environmental integrity
14 and emissions reductions goals of the program. If an
15 additional price containment mechanism is developed, there
16 are alternatives to a straight price cap that should be
17 considered. And we look forward to working with staff and
18 the Board as they continue to consider this issue of
19 allowance price containment.

20 Thank you very much.

21 CHAIRPERSON NICHOLS: Thank you.

22 Emma.

23 MS. PAYNE: Good morning. I'm Emma Payne, West
24 Coast Regional Director for Science and Innovation of the
25 British Consulate General in San Francisco.

1 I want to say a few words about the UK's
2 experience in the EU emissions trading scheme, about how
3 it has helped us grow our economy and encourage investment
4 in new technologies, but also about the challenges we
5 faced and how we are now fixing things we didn't get
6 right.

7 First, the headline numbers. Even after
8 correcting for the economic downturn, the EU's emissions
9 have fallen since the introduction of the ETS in 2007.
10 They've fallen, but the European economy has grown over
11 that period. So the ETS has not acted as a break on
12 growth, as some feared.

13 It has also helped drive investment. In the UK
14 we have seen nearly \$20 billion of investment in
15 renewables projects, creating over 22,000 jobs.

16 But certain things have not gone as well as they
17 might have. I want to take a few moments to set out what
18 we're now doing as a result and why we think California
19 has taken on board many of these lessons to ensure a
20 smoother start.

21 First, allocations. Particularly in Phase I, we
22 suffered from a surplus of allowances, a result of many
23 member states not setting tight enough caps due to lack of
24 good emissions data. This oversupply of allowances meant
25 that the carbon price fell, making allowances virtually

1 worthless by the end of the phase.

2 With three years of verified emissions data,
3 California is well placed to begin with a much more
4 realistic picture of the requirement for allowances.

5 Second, we did not use auctioning as extensively
6 as we should have. This meant that many European firms
7 made windfall profits from their free credits,
8 particularly in the electricity sector.

9 By taking a different approach to allocation in
10 the electricity sector, California can hopefully avoid
11 this outcome.

12 And the first two phases did not cover as much of
13 the European economy, and therefore of our emissions, as
14 they might have done.

15 With broader coverage over the long term,
16 California should enjoy low cost emission reduction
17 opportunities.

18 So what are we doing to fix these issues?
19 There's been a significant amount of work done to redesign
20 the program for the third phase. When it launches next
21 year, the third phase of the of the EUETS will see an
22 expansion of scope to include new sectors in gases and a
23 centralized tighter and declining cap. This will deliver
24 much greater emissions reductions.

25 We will see much greater volumes of auctioning

1 with free allocation according to rules harmonized across
2 the EU. This will deliver more efficient allocation of
3 allowances and avoid creating windfall profit. For
4 example, auction levels will be 100 percent for the power
5 section of the UK and most of the EU. And we're doing
6 more to harmonize monitoring, reporting, and verification
7 in order to level the playing field across the EU.

8 So, in summary, in Europe we did not get
9 everything right the first time. But we have learned
10 valuable lessons from this. And we're now implementing
11 those lessons as we move forward toward the next phases.

12 California's system takes many of these lessons
13 to heart and we believe is starting from an even stronger
14 place as a result. We welcome California's leadership and
15 the upcoming start of the program.

16 Thank you.

17 CHAIRPERSON NICHOLS: Thank you very much. We've
18 benefited from the very beginning of this from assistance
19 and conversations with our colleagues in the UK. So it's
20 been a long-standing relationship. We appreciate your
21 coming today.

22 Ms. Rothrock.

23 MS. ROTHROCK: Thank you, Chair Nichols and Board
24 members. My name's Dorothy Rothrock. I'm with the
25 California Manufacturers and Technology Association; also

1 represent the AB 32 implementation group.

2 And you will not be surprised to learn that we
3 are very disappointed that the Board is moving forward
4 without fixing the serious flaw of withholding allowances
5 from manufacturers and auctioning those allowances to
6 raise revenue in the Cap-and-Trade Program. We think
7 CARB's plan will kill manufacturing jobs and it's not
8 necessary to achieve the goals.

9 We need a firm commitment right away, that
10 manufacturers can rely upon, that CARB will provide
11 100 percent free allowances for all compliance periods
12 between now and 2020.

13 The Board resolutions attempting to address the
14 allowance allocation issues and some others that have been
15 raised by EMAC is really insufficient. Without a firm
16 commitment for 100 percent free allowances to 2020 --
17 excuse me -- with a firm commitment -- I'm having
18 difficulty speaking today. As you can see, I have new
19 hardware in my mouth. Thank you very much.

20 CHAIRPERSON NICHOLS: Sorry.

21 MS. ROTHROCK: This is my first public testimony
22 giving them a try -- a test drive.

23 CHAIRPERSON NICHOLS: Well, we'll give you an
24 extra 30 seconds.

25 MS. ROTHROCK: Thank you. I'm going to demand

1 that for the next two years.

2 With a firm commitment for 100 percent free
3 allowances, CARB could use next year to study whether that
4 approach would create some of the problems that you would
5 anticipate, perhaps windfall profits or other kinds of
6 problems. But the study should be to determine whether
7 those problems will occur, not imposing a serious
8 auction -- a significant auction requirement and then
9 studying to see if that creates leakage or if that's
10 necessary to prevent leakage.

11 This is a sensible approach. It puts the burden
12 on CARB to show why an auction is necessary. It protects
13 manufacturing jobs and investment in the mean time. And I
14 think then problems could then be identified and specific
15 solutions could be targeted to fix those problems rather
16 than the blanket approach that CARB has taken to have a
17 huge auction requiring the withholding and auctioning of
18 many allowances.

19 Thank you very much.

20 CHAIRPERSON NICHOLS: Thank you.

21 Could I just ask you one question for
22 clarification. I'm sorry, but you've never addressed this
23 precisely before.

24 MS. ROTHROCK: Please do.

25 CHAIRPERSON NICHOLS: And, that is, is CMTA and

1 the AB 32 implementation group opposed to the utility
2 auction or only to auctioning of industry?

3 MS. ROTHROCK: You know, it's a good question.
4 And I was reflecting on that with the testimony from the
5 British Consulate.

6 The problem with windfall profits in the EU
7 really did occur in the electric sector. It wasn't a
8 manufacturing issue. And I guess we don't have a position
9 on the electricity auctioning. But we are very firmly
10 committed on the manufacturing front.

11 So thanks for that question?

12 CHAIRPERSON NICHOLS: Thank you.

13 All right. Frank Harris is next. And there are
14 a number of people who signed a letter, I see, jointly.
15 But I guess if you all want to speak separately, we'll go
16 Frank Harris, Tim Tutt, Mark Krausse next.

17 MR. HARRIS: Hello, everybody. My name's Frank
18 Harris. I'm with Southern California Edison.

19 I'd be more than willing to have oral surgery if
20 it would give me the opportunity to have extra time every
21 month, you know.

22 CHAIRPERSON NICHOLS: I don't think that's a good
23 deal actually.

24 MR. HARRIS: Oh, that's how much I like to talk
25 to the Board though.

1 Edison -- you mentioned the joint letter. Edison
2 has appreciated working with ARB and the staff on
3 development of the Cap-and-Trade regulation. We share
4 your goal that you described earlier about developing a
5 well designed program to act as an example to others in
6 the United States and internationally.

7 During this time, your staff and leadership of
8 the Board has communicated status with the stakeholders as
9 well as details of system development. And it's clear
10 that this open communication has been a very positive
11 source of information flow in both directions. And so
12 we -- I wanted to first highlight that issue and
13 demonstrate our appreciation and consideration of that.

14 There are two real key topics that I wanted to
15 address today. We've spoken quite a bit about system
16 readiness and market readiness. And I've been very clear
17 that from Edison's perspective what we would like to see
18 is an additional practice auction, an end-to-end sort of
19 evaluation. We are concerned about the mandatory
20 consignment and we've suggested perhaps that one method to
21 help us on this point would be perhaps to reduce the level
22 of mandatory consignment in the first auction, perhaps
23 with one-third down to one-fifth of the 2013 allowances.

24 But given the timing and the nature of the
25 communication that we've had, and some of the statements

1 that the Chair and the Board has made with regard to
2 moving forward, were at least somewhat more comforted.

3 Chair Nichols, you have demonstrated a commitment
4 that the program would not be started if the Board felt
5 that it was premature to do so, if you were not clearly --
6 clear that you were ready to move forward. You
7 demonstrated this by moving the start to 2013 by having
8 the first practice auction.

9 And so at this point, Edison is confident that
10 that same sort of judgment and calculation on your part
11 and the part of the Board and the staff will still hold in
12 the event that you're not convinced moving forward. I
13 recognize that this is the last Board meeting before the
14 auction. For my part, I planned on being 3,000 miles away
15 on that day. So if California should fall into the
16 Pacific, we shall see.

17 Edison also supports some of the discussion we've
18 had on resource shuffling. And we support the direction
19 the staff has moved on the safe harbor approach.

20 One comment I wanted to make - it's just to be
21 clear - on environmental remediation, that creates a
22 little bit of heartburn on our part. I just wanted to
23 cite the existing enforcement authority that the Board
24 has. To focus any type of concerns directly on the actors
25 or the regulated agents that are involved and to not

1 spread this to the broader cap and trade.

2 And then -- I'm sorry, I've gone over time. My
3 mouth really hurts though.

4 (Laughter.)

5 MR. HARRIS: And just on the issue of the price
6 containment reserve. As you know, as staff knows, we've
7 provided a lot of suggestions on how the containment
8 reserve could be used as a framework to develop a more
9 firm signal to the market. And we look forward to the
10 opportunity to work with staff moving forward on that
11 issue.

12 Thank you very much.

13 CHAIRPERSON NICHOLS: Thank you.

14 If I were true to the principles of cap and
15 trade, I would take some time away from Tim Tutt, but I'm
16 not going to do that.

17 MR. TUTT: Good morning, Chair, members of the
18 Board, staff and stakeholders. My name is Tim Tutt. I'm
19 representing the Sacramento Municipal Utility District
20 here today.

21 I have no oral surgery issues. But I can assure
22 you as a publicly owned utility, that we have no interest
23 in windfall profits, no way of taking advantage of
24 windfall profits.

25 It's been awhile since I've been before you. So

1 I wanted to just remind you that SMUD has taken a
2 leadership position on carbon policy by adopting a goal to
3 reduce our emissions to 10 percent of our 1990 emissions
4 by 2050. And we really appreciate the Board's leadership
5 and California's leadership on climate policy, as we've
6 been moving forward in the last few years. It really is
7 groundbreaking. And because it's groundbreaking and
8 complicated, we also appreciate the way that we've been
9 able to work with your staff to make these regulations as
10 workable as possible and as efficient as possible so that
11 they actually will have a successful program.

12 One example is the letter of which we're signed
13 onto. And the recent discussion about resource shuffling
14 and how -- the vagueness of that in the original
15 regulations. And the path forward, which we support, that
16 staff and stakeholders have worked out, to establish
17 guidance for safe harbors, to work on the regulations in
18 2013, to fine tune the definition of resource shuffling
19 and make that work so that the electricity market is not
20 adversely affected.

21 This is a situation where -- as you know, the
22 electricity market is one of the most complicated
23 interactions between what's going on with cap and trade
24 and keeping the lights on in California.

25 So we just wanted to support the staff's path and

1 appreciate working together that we've had with them.

2 Thank you.

3 CHAIRPERSON NICHOLS: Thank you very much.

4 Mark Krausse, and then Tamera Rasberry and Cindy
5 Parsons.

6 MS. KRAUSSE: Good morning, Madam Chairman. Mark
7 Krausse on behalf of Pacific Gas and Electric Company.

8 As I think most of you know, PG&E was the first
9 utility to support passage of AB 32 and continues to
10 support its strong implementation today.

11 I want to start by thanking the Board and
12 particularly the staff for the thousands of hours of work
13 here and probably fielding hundreds of e-mails from PG&E
14 alone. We feel like they've been responsive to a number
15 of concerns. They've specifically addressed some of the
16 suggestions of stakeholders for a market monitor for
17 establishing the Emissions Market Assessment Committee.
18 We look forward to working in those areas.

19 But off of my prepared remarks, I want to observe
20 the Chair's comments about having a sensitivity to markets
21 and how this is going to impact markets. I think that's
22 what we want to mostly express an appreciation for,
23 because we were all very concerned about that. Everything
24 we raised I think you've taken some steps to address.

25 And so PG&E feels that overall we're at a step

1 where you've taken the critical steps necessary to launch
2 the program next month. And we look forward to your --
3 look to your market experts to make the final call on
4 readiness.

5 There are three areas that we worked with staff
6 on to get some final clarifications. Those are legacy
7 contracts; conduct of trade; and, has been mentioned,
8 resource shuffling.

9 On the legacy contracts, we appreciate staff's
10 commitment to clarify that the resolution the Board
11 adopted in September applies only to non-IOU contracts,
12 non-investor-owned utility contracts. And that IOU
13 contracts are the sole province of the Public Utilities
14 Commission. That helps with us. We'll work out the
15 differences we have with our parties. And that's the
16 venue for that.

17 We thank ARB for your further work in the area of
18 conduct of trade, which makes clear -- and, again this is
19 in the guidance language -- makes clear that utilities are
20 able to acquire and hold allowances on behalf of those who
21 sell them electricity, the generators that sell them
22 electricity for eventual transfer to those parties for
23 compliance. So that was very helpful.

24 And, finally, in the area of resource shuffling,
25 there is a joint utility letter. We support that

1 position. And we like the language in the resolution.
2 There were a few changes. I think we need to check
3 last-minute change. But in general that looks good.

4 The one thing I wanted to connect from Mr.
5 Harris' comments is the language in the slide deck about
6 environmental remediation. I think we understand that to
7 be something maybe that EMAC had brought up. And that was
8 the notion that the market overall -- you might remove
9 allowances from the market overall if you found resource
10 shuffling. And I think the regulation is already set up
11 to handle this. There's I think a three or four times
12 multiplier on the allowances that someone would have to
13 surrender if they hadn't complied fully in the first
14 instance. So where you find shuffling, you can do that to
15 the perpetrator, not to the market overall.

16 CHAIRPERSON NICHOLS: We agree.

17 MR. KRAUSSE: So with that, we thank you.

18 CHAIRPERSON NICHOLS: All right. Thank you.

19 Ms. Raspberry, and then Cindy Parsons and Susie
20 Berlin.

21 MS. RASBERRY: Thank you, Madam Chair. Tamera
22 Raspberry from the San Diego Gas & Electric and Southern
23 California Gas Company, the Sempra Utility Companies. And
24 I'm trying to be green and save paper by keeping my
25 comments electronically.

1 CHAIRPERSON NICHOLS: Do you need glasses to work
2 it?

3 MS. RASBERRY: I know. I need a big screen.

4 But the Sempra Utilities wants to thank staff
5 especially for their work on addressing the outstanding
6 issues that we've had since the regulation was adopted in
7 2010 and then the changes made in 2011. And we had some
8 outstanding concerns. We're still working on some issues
9 regarding the MRR. And we were glad to be able to work
10 out some issues that we had on the conduct of trade, as
11 Mark Krausse mentioned earlier.

12 And I just want to address real quick the
13 resource shuffling, that we were very concerned when this
14 was originally adopted and how not defining resource
15 shuffling would negatively impact California's electricity
16 markets. And we think that the resolution -- without
17 having seen the changes that were made between last night
18 and this morning, that the resolution provides sound
19 direction for staff to provide a guidance document on
20 resource shuffling and safe harbors in the near term and
21 changes to the Cap-and-Trade Regulation next year.

22 And we urge the Board to adopt the resolution.
23 Once again, we want to thank the staff for working with us
24 on this issue.

25 Thank you.

1 CHAIRPERSON NICHOLS: Thank you.

2 Cindy Parsons. I see Susie Berlin. And then
3 Stefanie Tanenhaus from NRDC.

4 MS. PARSONS: Good morning, Madam Chair and
5 members of the Board.

6 The Los Angeles Department of Water & Power
7 really appreciates staff working with the electric sector
8 to help define what resource shuffling is and isn't. And
9 we also support the safe harbor approach that the staff is
10 taking.

11 Regulatory certainty is needed to ensure that
12 investments that LADWP and others are making to reduce
13 greenhouse gas emissions, that those investments and
14 reductions are fully recognized, and that actions taken to
15 ensure power system reliability are not penalized.

16 In support of AB 32 LADWP is taking a number of
17 actions to transform our generation portfolio to reduce
18 greenhouse gas emissions, including replacing 70 percent
19 of our generating resources over the next 10 to 15 years,
20 expanding renewable energy to 33 percent by 2020,
21 increasing energy efficiency, eliminating ocean water
22 cooling at coastal power plants, and balancing the new
23 generation portfolio with cleaner, more efficient natural
24 gas.

25 LADWP is making direct investments to reduce

1 emissions. For example, LADWP improved the EIR for the
2 Barren Ridge Renewable Transmission Project that will
3 bring renewable energy from the Tehachapi Mountains and
4 Mojave Desert to Los Angeles.

5 LADWP recently approved contracts for two new
6 large-scale solar power projects, committed to 150
7 megawatt feed and tariff program, and doubled its annual
8 incentives for local solar projects.

9 LADWP is repowering natural gas generating units
10 at several of our end-basin power plants to provide
11 quick-start support for integrating renewable energy into
12 the power system.

13 LADWP adopted a 10 percent energy efficiency goal
14 and doubled its annual investments in energy efficiency
15 programs and is looking to increase that goal beyond 10
16 percent.

17 To make all this happen, the Los Angeles City
18 Council recently approved an 11 percent rate increase over
19 the next two years.

20 A key part of transforming LADWP's generation
21 portfolio is the early divestiture of our ownership
22 interest in the Navajo Generating Station, a coal-fire
23 power plant located in Arizona. This divestiture and
24 replacement with cleaner natural gas generation will help
25 California achieve its AB 32 emission reduction goal. We

1 need regulatory certainty that divesting of
2 coal-generating resources and replacement with lower
3 emitting resources will not be characterized as resource
4 shuffling and penalized under the Cap-and-Trade Program.

5 LADWP will be investing billions, with a B, of
6 dollars to comply with the multitude of regulatory
7 mandates. And every rate payer dollar needs to be
8 invested with the full understanding that divestiture and
9 replacement will be fully recognized by the State of
10 California as a legitimate emission reduction.

11 We support the proposed resource shuffling safe
12 harbors based on the understandings that it allows
13 divestiture and replacement of coal-generating resources,
14 which is necessary to transform our generation portfolio.
15 However, at this point it's only guidance.

16 So we would like to ask two things:

17 One, that ARB initiate the rulemaking as soon as
18 possible to clarify what is and is not resource shuffling
19 in the rule; and to finalize the rule amendments by the
20 end of 2013.

21 Number two, to include a mechanism to adapt the
22 resource shuffling definition and safe harbors to
23 accommodate unforeseen circumstances.

24 Thank you for the opportunity to comment.

25 CHAIRPERSON NICHOLS: Thank you.

1 Ms. Berlin.

2 MS. BERLIN: Good morning, Chair Nichols, members
3 of the Board and staff. My name is Susie Berlin and I'm
4 representing the MSR Public Power Agency and the Northern
5 California Power Agency.

6 We agree in large part, so I'm not going to
7 reiterate the comments that have been raised by previous
8 utilities, and both NCPA and MSR did join in the joint
9 utility effort to send a letter supporting the direction
10 that staff is taking with regard to addressing the
11 ambiguities and uncertainties involved in the resource
12 shuffling definition.

13 To that end I would like to reiterate our strong
14 appreciation for staff's willingness to work with
15 stakeholders and the countless hours that they've spent
16 with us to further understand the electricity sector and
17 how these definitions implicate our transactions in the
18 market -- in the everyday market.

19 It's important to clearly articulate the
20 transactions that are not deemed resource shuffling. And
21 to that end, the safe harbor provisions proposed by staff
22 form a solid basis for development of a list of acceptable
23 transactions moving forward. And we are glad to see that
24 there will be guidance prior to the November auction.

25 I'd like to also focus on the enforcement of

1 resource shuffling and note that if resource shuffling is
2 discovered after we spent all this time and energy to come
3 up with a good definition, then we believe that the
4 enforcement provisions already set forth in the regulation
5 as articulated in the Health and Safety Code provide CARB
6 with more than an adequate way to address this issue. And
7 we do not support a process that would apply special rules
8 to electrical distribution utilities versus other
9 compliance entities.

10 I want to touch on the rulemaking moving forward.
11 As Cindy Parsons said, the guidance is very important.
12 Articulation of the intent of the regulation not to impact
13 the kinds of transactions set forth in Appendix A are very
14 important. But we also need to have assurances that
15 divestiture of coal-fired and high-emitting resources as
16 part of a utilities comprehensive plan to meet its GHG
17 objectives and not as a means to simply avoid a compliance
18 obligation should be addressed, and we are very glad to
19 see that that is specifically called out in Attachment A.
20 And we want to ensure that the revisions that are drafted
21 recognize the steps taken by entities that are currently
22 committed to long-term contracts, that the intervening
23 steps between now and full divestiture are not deemed
24 resource shuffling, that they are recognized as they are
25 meant to be as part of a comprehensive plan, and that we

1 focus on the intent of resource shuffling, which was the
2 motivation to simply avoid a compliance obligation which
3 is not at issue here.

4 So thank you very much.

5 CHAIRPERSON NICHOLS: Okay. Thank you.

6 Stefanie Tanenhaus, and then Lily Mitchell and
7 Susan Frank.

8 MS. TANENHAUS: Hi. My name is Stefanie
9 Tanenhaus. I'm here on behalf of NRDC.

10 NRDC would like to thank both staff and the Board
11 for their continued efforts towards establishing the
12 foundation of a fair, effective and groundbreaking
13 Cap-and-Trade Program.

14 As the first auction approaches, we want to
15 acknowledge the degree of hard work, partnership,
16 transparency and problem solving that has gone into the
17 development of what stands to be the most comprehensive
18 and well designed emissions trading system to date.

19 Over the past six years, while staff and
20 stakeholders worked diligently to construct a workable
21 plan to meet AB 32's targets, the imperative to reduce our
22 carbon pollution has only intensified.

23 Last month was the hottest September on record.
24 It marked the 331st consecutive month of above average
25 temperatures.

1 The Arctic melted at unprecedented rates,
2 reaching a record low this year. Scientists now forecast
3 that as early as 2015 the Arctic may be ice free. That's
4 in three years.

5 The global nature of these occurrences does not
6 justify an action. Here in California, extreme weather,
7 increased doubt and wild fires, melting snowpack and
8 rising sea levels are jeopardizing our way of life. While
9 ultimately broader action is needed to prevent worsening
10 conditions, large polluters must be held accountable for
11 their contributions to what is causing them.

12 And Cap-and-Trade Program provides that
13 accountability and offers a model and a platform to model
14 with other jurisdictions in more widespread initiatives.
15 As this program progresses, we look forward to continued
16 collaboration with staff and the Board to keep California
17 on track to reduce emissions, improve air quality and
18 public health, and maintain California's position as a
19 global leader in the development and realization of
20 solutions to climate change. We cannot afford to falter.

21 Thank you.

22 CHAIRPERSON NICHOLS: Thank you.

23 Ms. Mitchell.

24 MS. MITCHELL: Good afternoon, Madam Chair and
25 members of the Board. I'm Lily Mitchell for the Southern

1 California Public Power Authority.

2 As set out in the utilities letter given to the
3 Board today, SCPPA supports the staff's proposed approach
4 to addressing the resource shuffling definition in the
5 Cap-and-Trade regulation, as specifically the development
6 of guidance setting out safe harbors before the first
7 auction, followed by amendments to the regulation next
8 year.

9 SCPPA thanks the staff for their responsiveness
10 to our concerns in this difficult area. And we look
11 forward to working with the staff as they develop guidance
12 and regulatory amendments.

13 Thank you.

14 CHAIRPERSON NICHOLS: Thank you.

15 Ms. Frank, and then Pablo Garza and John
16 Constantino.

17 MS. FRANK: Chair Nichols, Board members. Thank
18 you. I'm Susan Frank representing the California Business
19 Alliance for a Green Economy. And I'm here today to
20 present a letter that's been signed by dozens of
21 California leaders -- California business leaders
22 representing tens of thousands of workers, that has a very
23 simple message. And you should have a copy of that letter
24 in front of you. And it says, "Let's get going."

25 The letter goes on to say AB 32 has been the law

1 of the land for six years. There have been dozens of
2 public hearings, like today, and workshops and tens of
3 thousands of public comments submitted.

4 Uncertainty is bad for business. Stop the debate
5 and start the program.

6 The businesses -- chambers of commerce and
7 business associations that have signed on to this letter
8 are from all parts of the state. They represent diverse
9 industries from Main Street to clean tech to
10 manufacturing. And they are, frankly, growing weary of
11 the opposition's efforts to derail AB 32.

12 Let me state clearly. Despite what you read in
13 the papers, read in petitions, we're here today, we're in
14 the weeks to come. Businesses support AB 32, cap and
15 trade, and the auction. Before AB 32 was signed into law
16 in 2006, the opposition tried to kill the law and they
17 failed.

18 In 2010 the opposition changed its tune and said
19 that it supported AB 32 but wanted unemployment to be
20 lower before implementing. They spent \$10 million or more
21 and they failed then as well.

22 They're now telling you through expensive
23 newspaper and on-line adds that they support AB 32 but not
24 the Cap-and-Trade auction. I'm guessing that we can get
25 to a post-November auction scenario where they say they

1 support AB 32 but now petroleum fuel shouldn't be
2 regulated.

3 Businesses need certainty. They need to make
4 investments and plan for the future. The businesses that
5 I work with and have signed on to this letter support
6 energy efficiency and reducing our dependence on oil.
7 They know AB 32 is leading to a stronger economy in this
8 state.

9 These businesses don't want to ride a regulatory
10 seesaw. Oil companies and their friends may have the
11 funds to ride that seesaw for a long time. But thousands
12 of businesses across the state who support AB 32 want
13 predictability, and they don't have unlimited funds to
14 tell you how they feel. So let's get going.

15 Thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 Mr. Garza and then John Constantino.

18 MR. GARZA: Good afternoon, Madam Chair and
19 members of the Board. I'm Pablo Garza with The Nature
20 Conservancy. And I have no mouth pain this morning. But
21 this is the first time I've looked at myself as I've
22 addressed the Board, so that's kind of an interesting
23 experience. I might look down at my --

24 CHAIRPERSON NICHOLS: A little eerie, isn't it?

25 MR. GARZA: But I just want to echo a lot of the

1 comments that have already been made. You know, The
2 Nature Conservancy continues to be strong supporters of
3 the Cap-and-Trade Program. We're very excited that we're
4 on the verge of the first auction next month. And you
5 think -- you know, envision realizing all the benefits,
6 environmental, social, and economical, that come along
7 with, you know, successful implementation of the program.

8 And I want to thank your staff and the Board for
9 the many hours of hard work and the many public hearings
10 you guys have held, you know, over the last several years
11 to develop this program. And just really impressed in the
12 amount of transparency that that has involved. And, you
13 know, I raise that because I know one of -- I want to
14 acknowledge there's some -- I think some later speakers
15 may address the issue of potential linkage with
16 international jurisdictions and REDD. And I acknowledge
17 there's ongoing controversy and debate over this issue.
18 And, you know, we'll have to -- to date that has not
19 happened, and perhaps at a future date that's an issue
20 that the Board will take on.

21 We would expect and anticipate, and I have full
22 confidence that when the Board does take that step, that
23 it will have the same kind of transparency and public
24 hearings to air the numerous legitimate concerns and do
25 the linkage in the proper way that, you know, ensures

1 social and environmental safeguards.

2 And that's all I wanted to say. And thank you
3 again for your hard work. And good luck.

4 CHAIRPERSON NICHOLS: Thank you for joining and
5 helping out.

6 You've got the last word, Mr. Constantino.

7 MR. CONSTANTINO: Thank you, Madam Chair and the
8 Board members.

9 And I want to thank staff for taking the
10 opportunity to bring up an issue which has been on the
11 back burner, been in the weeds, and behind the scenes for
12 a long time. It's the issue of carbon capture and
13 storage. And I represent the HECA Project, which is a 400
14 megawatt power plant that is going to be built in Kern
15 County. It is currently going through the CEC process to
16 get permitted.

17 And basically I just wanted to encourage staff to
18 keep working on it, and thank the Chair for bringing it up
19 and acknowledging that this is an issue moving forward.
20 And when the project gets built by 2016, the
21 quantification methodology that's already in the
22 Cap-and-Trade Program, which will help define what carbon
23 stays in the ground, is an important technical aspect of
24 the program that we encourage work to begin on. And I
25 just wanted to again thank staff for keeping it going on

1 behind the scenes.

2 CHAIRPERSON NICHOLS: Thank you. Yeah, I think
3 it's important that we reiterate the fact that we think
4 California is an ideal place for doing sequestration
5 because of the geological formations and the oil industry
6 that's here. But as I've learned over the last year or
7 two, there are many obstacles, really the misalignment of
8 the economic incentives that make it very difficult to put
9 a project together.

10 So hopefully we can contribute something by at
11 least helping to clarify what the emissions benefits would
12 be.

13 MR. CONSTANTINO: Thank you.

14 And the project is on track even with all the
15 obstacles in front of it. So hopefully we can get it
16 done. If we can get this done, then that will send a
17 great signal moving forward.

18 CHAIRPERSON NICHOLS: Good to hear. Thank you.

19 Okay. We are now --

20 MR. LARREA: Excuse me?

21 CHAIRPERSON NICHOLS: Sorry?

22 Oh, you didn't sign up? That's all right.

23 MR. LARREA: Actually I did. I think I might
24 have signed the wrong thing. But this is the area that
25 I'd like to comment on.

1 CHAIRPERSON NICHOLS: All right. You're here for
2 the cap and trade though?

3 MR. LARREA: Yes.

4 CHAIRPERSON NICHOLS: All right. Go ahead.

5 MR. LARREA: Thank you.

6 John Larrea with the California League of Food
7 Processors.

8 First of all, thank you for allowing me to speak.
9 And sorry if I signed the wrong thing here.

10 One, I just wanted to update you a bit. We are
11 working very closely with the staff and with the assigned
12 teams associated with both the leakage study that we're
13 trying to do as well as with our product-based
14 benchmarking. And we anticipate that we will meet those
15 deadlines that the product-based benchmark team has
16 indicated that you would like them to meet. So know that
17 we are in constant communications with them and in
18 cooperating.

19 Now, on the issue of free allowances, the League
20 and its members continue to want 100 percent free
21 allowances for the auction. And so as a result of that,
22 we do support the LAO's findings regarding the free
23 allowances.

24 However, I did note on the last Board meeting
25 both Dr. Larry Goulder and Dr. Jim Bushnell made

1 presentations associated with the offering of free
2 allowances under the auction. And, you know, they came
3 in -- and I thought it was significant that they came in
4 on their own time to present their own opinions associated
5 with that and what the impacts of those would be. And I
6 started to think about, you know, that while they are very
7 well known in their areas and very well respected, those
8 were opinions and they were not findings. They were not
9 the subject of a study or data collection associated with
10 whether or not the LAO's conclusions were correct or even
11 feasible.

12 And so I began to wonder. And I think the League
13 would like to request that the ARB maybe conduct a study
14 associated with the LAO findings so that we can now have
15 some actual data and we can have some presentations
16 associated with this, as opposed to just opinions from
17 both sides as to whether or not this is going to be a good
18 deal or a bad deal. It's very significant for us because
19 it will be a huge cost.

20 Secondly, I would like to just talk about the
21 auction itself. You know, if the auction does go forward
22 in November, we were pleased to see that you're to --
23 you're giving information out about how many allowances
24 you're going to be putting out. But after the auction, I
25 think it would be significant if you would release some

1 data associated with percentages as to who participated in
2 the auction and how many, say, percentages in terms of how
3 many allowances were bought by whom; for instance,
4 percentages bought by regulated entities as opposed to
5 those who are financial institutions or market
6 speculators. Because it would give us who are forced to
7 participate in the auction, in order to be able to
8 continue to produce, the ability to gauge that auction and
9 gauge, you know, just what we're running up against. So
10 please consider that as, you know, part of the release
11 after the auction takes place.

12 CHAIRPERSON NICHOLS: I believe that's the
13 intent. Yes, it is. That's already assumed that we will
14 do that.

15 So you've made a major impression just by being
16 here today, you see.

17 MR. LARREA: Well, thank you.

18 CHAIRPERSON NICHOLS: Thank you.

19 With respect to studying, you know, auctions
20 versus non-auctions, I just want to point out that the LAO
21 didn't do any kind of a study either. They were
22 expressing an opinion that was based on people that they
23 had talked to. So you're right, that there is a need for
24 more hard data in this area. And we have actually been
25 working with a group of economists that we convened about

1 a year ago to make sure that there are some studies in the
2 works. I can't give you any specific deadlines when
3 things will be done, but I know there is work under way on
4 that in some of these other topics.

5 MR. LARREA: That's good news. It would be very
6 helpful to have, say, a workshop where we could also
7 present some positions associated with this and kind of,
8 you know, corral what the issues would be and where to go.
9 Because right now all we're doing is essentially back and
10 forth on opinions. And, you know, this is a major one.
11 Most of the industry supports the LAO findings, whereas
12 there's --

13 CHAIRPERSON NICHOLS: Okay. Thank you.

14 MR. LARREA: Thank you.

15 CHAIRPERSON NICHOLS: Thanks for coming.

16 That does conclude the public testimony on this
17 exact item. We have other people who are here to address
18 the Board on other things.

19 So let's move to the resolution, which I believe
20 everyone has in front of them.

21 Yes, it's right here. I don't know if you've all
22 had a chance to look at it or if you have any questions
23 or --

24 BOARD MEMBER D'ADAMO: Well, I'm prepared to
25 offer a motion. But I did have a question of staff.

1 Mark Krausse had raised an issue about the
2 September language, the IOU issue and the September
3 resolution language. I just want to make sure that that
4 has been addressed.

5 EXECUTIVE OFFICER GOLDSTONE: Thanks, Mark.

6 MR. KRAUSSE: I'm sorry. We've worked that out
7 with staff. And it's not addressed in this resolution,
8 but it's going to be handled through other communications.

9 BOARD MEMBER D'ADAMO: Oh, okay.

10 MR. KRAUSSE: So we're very satisfied.

11 BOARD MEMBER D'ADAMO: So move adoption of
12 Resolution 12-51.

13 BOARD MEMBER BALMES: Second.

14 CHAIRPERSON NICHOLS: All in favor please say
15 Aye.

16 (Ayes.)

17 CHAIRPERSON NICHOLS: Opposed?

18 Great. Thank you.

19 We'll be back, I'm sure, at future Board
20 meetings.

21 And thank, staff, for all that you've done to get
22 us to this point. And thanks to everyone else who's been
23 part of this journey.

24 All right. We would like now to take public
25 comment. I know there's a group of people here with a

1 presentation that they want to make to us. I think that
2 they've heard this before from staff, but I do want to
3 make clear for the Board members before we move into the
4 public comment that we deliberately did not encompass REDD
5 in our offsets provisions of our Cap-and-Trade Program
6 because of many concerns about whether we could do
7 international offsets relating to forestry in a way that
8 would meet our criteria for being surplus and enforceable
9 and monitorable and all of those things.

10 So there is not any proposal currently before the
11 Board or any time soon planning to come to the Board to do
12 this kind of project. However, it is open that at some
13 point in the future a regulatory amendment could come
14 before the Board. And I believe that the people who come
15 to speak to us want to express their views about why they
16 think that would be a bad idea.

17 So I hope I'm stating their position correctly.
18 And I would invite you to come forward and speak.

19 MS. CHAN: Good afternoon, and thank you so very
20 much for the opportunity to speak with you today.

21 My name is Michelle Chan. I'm the economic
22 policy director of Friends of the Earth based in
23 California. And I'm here with a group of colleagues who
24 strongly support California's efforts to reduce greenhouse
25 gases and also strongly believe that protecting tropical

1 forests is critical to protecting our global climate.

2 As Chair Nichols mentioned, my colleagues are
3 here to talk about REDD, which are international forest
4 carbon credits. And as she also mentioned, California has
5 not yet promulgated draft rules that would allow such
6 credits to enter our Cap-and-Trade system. So it may seem
7 really early for us to have this conversation today.

8 But as you'll hear from colleagues from Chiapas,
9 Mexico, and from Acre, Brazil - and these are two states
10 that could be the first states to supply California with
11 REDD credits - communities have already been evicted in
12 the preparation for REDD. And REDD readiness efforts have
13 also been undercutting the efforts of indigenous peoples
14 to gain land tenure. So for these people it's not really
15 for them to start this conversation. And since California
16 is actively exploring REDD through initiatives like the
17 Governor's Forest and Climate Task Force, it's also I
18 believe not too early to hear some cautionary tales of how
19 indigenous peoples in forest-dependent communities are
20 being impacted by REDD and REDD-type projects.

21 In conclusion, from even this early evidence it
22 is our belief, and also the belief of 30 other
23 California-based organizations, that despite the best
24 intentioned efforts to ensure environmental and social
25 safeguards, that REDD offsets pose unacceptably high risks

1 and should not be part of California's climate change
2 policy.

3 So with that, I'll turn it over to some of the
4 guests who have traveled so far to be with us today.

5 MS. AGUILAR: Good afternoon. My name is Rosario
6 Aguilar and I am from the State of Chiapas, Mexico, and I
7 work with communities that are already being affected by
8 REDD and the preparation for REDD.

9 First of all, I believe we are all united here in
10 a concern about climate change, and I applaud the efforts
11 of the State of California to combat climate change and to
12 save the planet. And also I am sure that you're committed
13 to the well being of indigenous peoples as well. So I'd
14 like to provide you with some context about why we oppose
15 and reject REDD and why we defend life and address climate
16 change.

17 The State of Chiapas has a long history of
18 profound social conflict of the 32 states of Mexico.
19 Three of the most intense agrarian land conflicts are
20 found in our borders. So I brought with me today this
21 official brochure of the State of Chiapas, Mexico, that
22 they distributed at the United Nations Climate Change
23 negotiations and the conference of the party number 16 in
24 Cancun, Mexico. It's a brochure about their efforts to
25 promote and implement REDD and a related avoided

1 deforestation initiative. And it clearly -- this official
2 document of the State of Chiapas clearly proves that REDD
3 results in evictions. In fact, they brag about having
4 evicted 172 communities to do REDD. We're talking about
5 the profound suffering of women, children, and men of
6 Chiapas.

7 So for indigenous communities in Chiapas, even
8 though REDD still is not being implemented officially, it
9 is already causing profound social conflicts, despair, and
10 suffering of the population of Chiapas.

11 I've also brought with me today a portrait of the
12 communities that are resisting REDD and that are defending
13 life and the planet. This photograph of the elders who
14 founded the community of Amador Hernandez, which is leading
15 the protests against REDD, includes Donya Juanita
16 (phonetic), a midwife, who in this photograph still had
17 two legs but no longer has one of her legs because it had
18 to be amputated because the government has suspended
19 medical services to this community as one of the measures
20 it's taking to pressure them to leave their forest so that
21 REDD can be done there.

22 So indigenous communities that are living on the
23 land are -- and are committed to saving the planet and
24 combating climate change are suffering from the lack of
25 medical services that the government has suspended to

1 implement REDD.

2 So, quickly, please don't even consider including
3 international REDD offsets in AB 32. The social risk is
4 too high. The political cost for you is too high. So
5 please heed our appeal not to include REDD offsets in AB
6 32.

7 Thank you very much.

8 CHAIRPERSON NICHOLS: Thank you.

9 My understanding is that the delegation is going
10 to be meeting this afternoon, also with Secretary
11 Rodriquez and several of our ARB staff people. So I
12 expect we will be getting a report from that meeting as
13 well.

14 MR. HUNI KUI: Good afternoon, Madam Chairman and
15 members of the Board. I am Ninawá Huni Kui from the State
16 of Acre in Brazil. And I here today, having traveled a
17 very long distance, to share with you our experience in my
18 state of the effects of REDD-type projects.

19 First, I would like to talk about the rights of
20 indigenous people. The UN Declaration of the Rights of
21 Indigenous People guaranties their right to free prior
22 informed consent. And this is a right which is being
23 denied in our state.

24 My state of Acre is one of the very few, along
25 with Chiapas, which has signed agreements, formal

1 agreements with the State of California. But these
2 agreements were signed with no consultation with the
3 indigenous people who lived there.

4 So I would like to say that the people in the
5 Amazon are feeling these effects. One very important
6 effect of these REDD-type projects is that the government
7 has stopped the demarcation of our indigenous lands.
8 These are lands that, because they would be included in
9 the REDD project, there are large companies, large land
10 holders and the government who now have an eye on these
11 lands. And they are restricting our way of life there,
12 our ability to have access to our traditional hunting and
13 fishing and gathering sites. And so for this reason we
14 are urging you to not accept including carbon trading in
15 your project.

16 And so to conclude, I would like to thank the
17 State of California for your project of reducing
18 emissions. We feel this is a very important step. But we
19 would like to urge you to not include REDD trading in your
20 program because we feel that it would detract from it.

21 And so I would again like to thank you for this
22 opportunity to be here and speak with you.

23 CHAIRPERSON NICHOLS: Thank you.

24 I'd like to discuss time with you -- with
25 everybody in the audience, because we didn't give you a

1 limit in terms of the total presentation. But we do have
2 Board members who have commitments that they have to make,
3 airplanes that they have to catch and so forth. I don't
4 want to be rude to you or to not allow you to make all of
5 the points that you wish to make. But I think the group
6 is probably going to have to stop - at least I'm going to
7 have to leave - in about ten minutes.

8 There may be the ability for some people to stay
9 and continue to listen to more or you might wish to wait
10 until later and, you know, make the rest of your points in
11 the meeting that you have later this afternoon. It's up
12 to you.

13 UNIDENTIFIED SPEAKER: Madam Chair, I believe
14 that the entire delegation can conclude in the next ten
15 minutes, if you -- Madam Chair, I think that ten minutes
16 will suffice, if you would be so kind.

17 CHAIRPERSON NICHOLS: Oh, all right. Great.
18 Thank you. Yes, of course.

19 MS. USHIGUA: So my name is Gloria Ushigua. I'm
20 from the Zapara people of the Ecuadorian Amazon. I'm the
21 president of the Association of Zapara Women.

22 And in Ecuador there is a REDD-type national
23 project called Socio Bosque, which means the social
24 forest. But we call it the Socio Bosque, the dirty
25 forest, the dirty forest, because what it really means is

1 that the government becomes the owners. They take over
2 our land and our territory and our rain forest, and they
3 don't let us into our own home. They say it's
4 conservation. But Socio Bosque includes extractive
5 industries, like oil drilling and mining.

6 So this is why I presented a document to the
7 Ministry of Hydrocarbons asking them to cease and desist
8 with the Socio Bosque program, rejecting the so-called
9 benefits they were offering, because we know this is
10 really about -- this REDD-type project is really about
11 evicting us from our homeland.

12 And because I have been resisting Socio Bosque
13 and this REDD-type project, I have been -- being
14 persecuted by the police and they want to jail me.

15 So the contract for Socio Bosque initially was
16 just 20 years, now it's been extended to 40 years. It has
17 a provision whereby it automatically renews every 20 years
18 even though we don't sign it again or even get to review
19 it or analyze it.

20 Thank you.

21 MR. CONANT: Good afternoon, Madam Chair and
22 members of the Board, and thank you for your time. And I
23 applaud your commitment to addressing the greatest crisis
24 I believe that humanity has ever known, the climate
25 crisis.

1 I'm Jeff Conant with Friends of the Earth. And I
2 will be as brief as I can.

3 I recently attended the Governor's Climate Change
4 and Forest Task Force meeting in Chiapas, Mexico. And I
5 have attended and visited with communities in both Chiapas
6 and in Acre who are telling stories such as the stories
7 we're hearing now of displacement, of evictions, of
8 harassment, of threats. And so I found it especially
9 interesting at the recent meeting three weeks ago in
10 Chiapas where members of the community of Amador Hernandez
11 asked for permission to speak to the plenary of the
12 Governor's Climate and Forest Task Force and were denied
13 the opportunity. They were the only indigenous campesinos
14 to attend the meeting, the only affected communities to
15 attend the meeting.

16 And so what they did was they took the mike
17 anyway. They took the floor and they took the opportunity
18 to speak. And what they told us was that the project that
19 is being implemented right now in Chiapas in anticipation
20 of funds from California -- we know that there are no
21 funds flowing there from California yet -- but the very
22 anticipation of these funds from California is leading to
23 violence, is leading to conflicts, is leading to
24 displacement, as we've heard.

25 And one of the women from the community of Amador

1 Ernandez took the mike and gave a statement, which we have
2 included in your packets. You've all received a packet of
3 information about the very well documented situation in
4 Chiapas. And there's a statement in there where you see
5 Donyal Femia handing out fliers to the members of the
6 board saying, "We have not been informed. We have not
7 been consulted." And we have translated her statement and
8 we share it with you all here today. So I hope you will
9 be able to take the time to read it.

10 And we have heard today from several
11 international colleagues about both indirect threats to
12 their livelihoods and direct threats to their lives from
13 the implementation and the potential implementation of
14 REDD-type projects. We've spoken with the Governor's as
15 office this morning asking that he take seriously these
16 threats.

17 And I therefore urge the Air Resources Board to
18 do the right thing, to respect the established human
19 rights implements, to respect the rights of indigenous
20 peoples, and to thoroughly reject any and all
21 consideration of international offsets within AB 32.

22 Thank you very much for your time.

23 CHAIRPERSON NICHOLS: Thank you. And thank you
24 for your help in keeping us on schedule.

25 Good luck with the rest of your meetings.

1 MS. SMITHIES: Thank you very much, Madam Chair.
2 Good afternoon to the members of the Board. My name is
3 Cassandra Smithies, and I am a United Nations consultant
4 on indigenous people's rights and human rights in general.

5 And I too join myself to the chorus that applauds
6 your efforts to reduce greenhouse gas emissions and to
7 address climate change.

8 However, it is my absolute duty to inform you
9 that REDD-type projects throughout the world are causing
10 human rights abuses and environmental destruction. These
11 abuses and human rights violations include deaths, land
12 grabs, violent forced evictions, shootings, jailings,
13 persecution and criminalization of indigenous leaders like
14 the ones here today; and violations of the right of free
15 prior informed consent, which is enshrined in the United
16 Nations Declaration on the Rights of Indigenous Peoples.

17 We all know that Chevron is the biggest polluter
18 in California. And Chevron, in fact, has a REDD-type
19 project in Brazil that uses armed guards. There's a
20 project in the ancestral territory of the Gwadani people.
21 And these armed guards are shooting at people,
22 intimidating and persecuting local communities, searching
23 and entering private homes without due authorization. The
24 project is having devastating impacts on local
25 communities.

1 So obviously it does not behoove the State of
2 California to include international REDD offsets in AB 32.
3 In fact, it would have a very high cost in terms of human
4 lives and also, I reckon, a very high political cost for
5 the State of California as well.

6 Thank you very much.

7 MS. TARUC: We're going to combine ours to speed
8 up the time.

9 My name is MariRose Taruc with the Asian Pacific
10 Environmental network. We work with immigrant Asian
11 Pacific islander families who are living next to polluting
12 facilities here in California.

13 We are a strong supporter of AB 32. We believe
14 in the emissions reductions that is stated in the goals of
15 AB 32. And we want to make sure that those emissions
16 reductions happen at source so that companies and
17 industries are not avoiding their responsibility for those
18 emissions reductions.

19 And so with direct emissions reductions, that
20 would protect our health here in California, the
21 fence-like communities next to these polluting facilities,
22 and prevent carbon offsets like the REDDs programs that
23 our allies internationally have come here to ask for your
24 position to not use. And so there are other environmental
25 justice groups who are opposed to the carbon offsets in

1 the REDDs programs.

2 MS. PARINO: So just to add our name to the
3 groups in California - the Center on Race, Poverty and the
4 Environment. And we represent many low income, minority
5 communities in the San Joaquin Valley who are living next
6 to these polluting facilities. And basically they stand
7 with our brothers and sisters internationally. And
8 basically the REDD program is bad for California
9 communities and it's bad for the communities
10 internationally that are being decimated because of the
11 REDD program and our communities here who are not
12 receiving those local benefits from pollution reduction.

13 MS. VANDERWARKER: My name is Amy Vanderwarker.
14 I represent the California Environmental Justice Alliance,
15 a coalition of six grass roots environmental justice
16 organizations throughout California working in low income
17 communities and communities of color highly impacted by
18 climate change and air pollution. And we also strongly
19 support the statements and the concerns of the indigenous
20 communities internationally.

21 We've heard a lot today about the ARB's
22 commitment to the integrity of its AB 32 programs, which
23 we strongly support, and we support the effort to reduce
24 greenhouse gas emissions. And I think you've very clearly
25 heard that the integrity of these programs will be

1 threatened, and from our indigenous brothers and sisters
2 around the globe.

3 And we strongly urge you to send a clear message
4 that international offsets and this kind of social and
5 human costs of California's efforts to reduce greenhouse
6 gas emissions are not acceptable.

7 Thank you.

8 MR. CZEBINIAK: Madam Chair and members of the
9 Board. I'm Roman Czebiniak with Greenpeace. We have not
10 been categorically opposed to REDD. However, we do oppose
11 the effort initiated by former Governor Schwarzenegger to
12 include some national REDD offsets in the Cap-and-Trade
13 Program here, precisely because we feel it would be
14 ineffective and counterproductive to the goals of AB 32
15 and potentially harmful for people, both here and abroad.

16 But if California is interested in taking action
17 to protect tropical forests, there are things that it
18 could do.

19 First, California could identify how much is it
20 already actively contributing to tropical deforestation
21 through fiscal and policy incentives and through the
22 purchase of commodities linked to destructive industries
23 there.

24 How much is CalPERS, for instance, investing in
25 companies that are driving deforestation in the Amazon,

1 pall mall (phonetic) companies in Indonesia, and timber
2 extraction in the Congo.

3 I bring these up, Madam Chair, because the
4 European Union and Norway, who have adopted targets of 20
5 percent and 40 percent below 1990 by 2020, have explicitly
6 rejected the offsets that are being pushed here for the
7 reasons that have been noted already.

8 Instead, the European Union this year is
9 identifying what is its forest footprint, how is it
10 contributing to tropical deforestation, and how can it
11 eliminate that to reach the goal of zero deforestation by
12 2030.

13 Norway, small country, pale and humorous people,
14 happens to have the largest single pension fund in the
15 world, while California's is the largest in the states.
16 And Norway is taking action to ensure that its pension
17 funds and its sovereign wealth fund is not investing in
18 companies driving forest destruction activities in the
19 tropics. So one of these things, like leadership, the
20 inclusion of projects that will allow companies to
21 continue to impact communities here while providing
22 questionable results overseas does not.

23 And thank you again for allowing us time to speak
24 here today.

25 CHAIRPERSON NICHOLS: All right. Is that the

1 conclusion then of the delegation?

2 MS. SMITHIES: Yes, Madam Chair.

3 CHAIRPERSON NICHOLS: Yes. Okay.

4 I know that there are people here who have
5 different views on this topic and who were prepared to
6 comment. I don't think it's necessary, because no action
7 is going to be taken. I do think it was important that we
8 had an opportunity to hear from these people who have come
9 so far and who feel so strongly about their viewpoint.
10 And we certainly will take your information into account
11 before we take any further action on this item.

12 So thank you.

13 BOARD MEMBER BERG: I believe there -- were
14 there two other witnesses?

15 CHAIRPERSON NICHOLS: There was -- who else do we
16 have here? I've lost my list apparently.

17 BOARD MEMBER BERG: A Russell Ellis. Number 11
18 and 13.

19 CHAIRPERSON NICHOLS: Oh, my goodness. John
20 Larrea was signed up under the wrong place.

21 All right. Russell Ellis.

22 Is Russell Ellis here?

23 Okay. I think we're done.

24 On the next page?

25 Oh, Karen Snyder. I'm sorry.

1 MS. SNYDER: Thank you. I will be very brief.

2 Chairman Nichols and members of the Board. I
3 appreciate the opportunity today to speak to you about
4 workplace bullying here at the ARB. I myself have been a
5 target for five plus years and know of others who have
6 been targeted as well.

7 October 14th through the 20th is Freedom from
8 Workplace Bullies Week, and part of the reason I chose to
9 speak to you today and alert the press about this matter.

10 I have given you a packet regarding workplace
11 bullying and have highlighted for you the things that have
12 happened to me at the ARB, which you can look at at your
13 leisure.

14 I am not here to go into the details of what has
15 happened over the five past years; rather, make you aware
16 that this is a problem, which regular fear and
17 intimidation keeps staff silent. That silence ends today
18 with me. And I hope others will be brave enough to speak
19 up about their own stories, past and present.

20 I'll leave you with what I found on the Workplace
21 Bullying Institute website. One of them states, "Getting
22 PTSD at work makes work a war zone."

23 And just a little FYI. I work in the Planning
24 and Technical Support Division, PTSD.

25 And to leave you with a quote from Buddha:

1 "Blessed are they who earn their livelihood without
2 harming others."

3 Thank you.

4 CHAIRPERSON NICHOLS: I would just ask Mr.
5 Goldstene to address the question of whether there is a
6 process by which an employee who feels that they have been
7 harassed or bullied is able to complain. I'm not asking
8 for your further comment. I'm really asking a question
9 just for the Board's information.

10 EXECUTIVE OFFICER GOLDSTENE: Yeah, we have an
11 office that any employee can go to that reports directly
12 to the Executive Office if there's any kind of allegation
13 like this that needs to be looked into. And then there
14 are other options, both within other state agencies and at
15 the federal level that employees can also pursue, like EEO
16 and --

17 CHAIRPERSON NICHOLS: And is there a personnel
18 matter relating to this employee?

19 EXECUTIVE OFFICER GOLDSTENE: In this particular
20 case there is a pending --

21 CHIEF COUNSEL PETER: No. No. Stop.

22 EXECUTIVE OFFICER GOLDSTENE: I can't comment on
23 that.

24 CHAIRPERSON NICHOLS: Okay. Oh, no comment about
25 whether there is or is not? You're not even allowed to

1 answer that question?

2 Okay. I won't pursue it then. Thank you.

3 Seeing no others who are here to address the
4 Board, we will be adjourned.

5 Thanks, everybody.

6 (Whereupon the Air Resources Board adjourned
7 at 12:51 p.m.)

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1 CERTIFICATE OF REPORTER

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

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

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

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 31st day of October, 2012.
15
16
17
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