

August 23, 2009

The Honorable Edmond G. Brown

Attorney General for California

P.O. Box 944255

Sacramento, CA 94244-2550

Dear Mr. Brown,

I am writing this letter to urge you to step in and temporarily suspend the new diesel regulations implemented by CARB. These regulations are estimated to cost Californians over 10 billion dollars and there are many scientist who vehemently disagree with the scientific data that these regulations were based on (See article enclosed).

I am a retired small business owner. I owned a Shell Station in Walnut Creek for over 20 years and have observed the manner in which CARB uses and dismisses data to uphold their erroneous decisions. They have done more damage than good to this state. Remember the reformulated diesel they demanded that damaged thousands of engines that cost CA over 10 million dollars? Remember the single largest damaging environmental blunder caused by the poison MTBE? That cost CA over 30 billion dollars in 20-30 cents higher gas prices over the last decade and left us with contaminated groundwater in areas that will cost over 10 billion to clean up. I followed the entire MTBE process and CARB plain ignored all data that was problematic in using MTBE. They were warned about implementing reformulated diesel and MTBE. They are being warned about implementing the new diesel regulations based on fraudulent science now. CARB isn't listening.

It's time for you to step in! Why are we as a state letting this group of politicians who think they are scientist enact another multi-billion dollar scam during a time when so many are out of work and California is broke is beyond me.

Mr. Brown, you are the last defense in protecting California from another complete disaster coming from this agency that hasn't even cleaned up the last mess they are responsible for.

Very Sincerely,

Jeff R. Miller

Enclosure:

California Ignores Scientific Protests, Passes New Diesel Regulations

Written By: John Dale Dunn

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Claiming their action will save thousands of Californians' lives and reduce health care expenditures, the California Air Resources Board has imposed new emission regulations on diesel trucks despite objections from an array of experts about the regulatory process and the credibility of the science.

Vigorous protests of the new regulations and the claims of benefits were submitted by Dr. James Enstrom of UCLA and others, amounting to more than 100 pages of written criticisms of the CARB scientific process and the studies that CARB claimed showed thousands of deaths from diesel small particles.

The year-long process of development of the new regulations resulted in some very revealing public commentary, accusations of complicity in the scientific review process, and even misconduct by CARB officials.

In the biggest scandal, opposition scientists found the lead author of the key study by CARB had faked his Ph.D. and lacked expertise in air pollution research. In addition, CARB hired reviewers to review their own papers, naturally resulting in approval of the scientific studies that claimed the death and health effects.

Dr. Henry Miller, a senior fellow at the Hoover Institution of Stanford University, in a May 27, 2008 essay in *The Washington Times*, declared the new regulations, called the "Goods Movement Emission Reduction Plan" (GMERP), an overreach by CARB based on bad science that will drive business out of California.

Miller cited a large and detailed 2005 study by Enstrom, who has a real Ph.D. from Stanford and a Masters in Public Health from his current university, UCLA. Enstrom found no death effect in the period between 1983 and 2002 from fine particulate matter in the air.

In any fair analysis of science, such a study disproves the claims of CARB of thousands of deaths. Miller pointed out the harm to the California economy created by the new CARB rules will induce additional deaths due to the "income effect." Miller, a physician and public health researcher, relates that it is well-established that premature deaths come to people suffering economic hardship and deprivation.

In a valiant effort to push back on the CARB diesel regulations, Enstrom and others provided commentary and analysis in 2008 that showed the CARB scientific process was poisoned with bias and insider dealing, including a review panel that was clearly not objective and was set up to give CARB what it wanted.

During the effort to urge CARB to reconsider the bad effects for little benefit, the Enstrom group found out the lead author for CARB on the study, Hien Tran, in fact did not have the Ph.D. claimed by CARB in its major study of air pollution and that he had authored no significant studies in air pollution toxicology.

On December 10, 2008, in a last effort to change CARB votes and ask for reconsideration of the new regulations with a more disciplined peer review and scientific process, Enstrom authored a letter to CARB reminding the board of the public comments submitted already by many distinguished scientists.

Enstrom noted CARB had not adequately responded to the many criticisms in the public comments raising process and evidentiary questions and refutations of the CARB claims of thousands of deaths. Submitters included Joel Schwartz from the American Enterprise Institute, Joseph Suchecki of the Engine Manufacturers Association, Dr. Suresh Moolgavkar, a prominent and nationally known epidemiologist, Dr. Fred Lipfert, also a national figure in public health, and Dr. John Dunn (the author of this essay), a 30-plus-year epidemiologist from UCLA.

They all asserted the CARB death projections were the product of an excessive zeal at CARB and unacceptably weak research on current California air pollution health effects. Moreover, the commentators pointed out the GMERP rules would impose new regulatory and economic burdens on industry and business that would result in

hardship for the consuming public and harm the failing and frail California economy.

The public commentary, mostly from scientists and more than 140 pages, was negative, with the expected supportive letters from environmental organizations.

In his December 10 letter, Enstrom pointed out CARB's disregard of public scientific commentary, the biased nature of the CARB consultants, lack of scientific qualifications of CARB lead author Hien Tran, and reasons why CARB should reconstitute its review process and committee members and restudy its scientific reports and projections of deaths.

In another December 2008 letter to CARB board members, Enstrom, Anthony Fucaloro, a 35-year chemist from Claremont McKenna University, Matt Malkan, a 25-year astrophysicist from UCLA, and Robert Phalen, a 35-year air pollution toxicologist from UC Irvine, pointed out their concerns:

General Concerns Regarding Air Pollution Health Effects and Regulations

- 1) Pollution levels are much lower today than in previous decades and current health risks are small.
- 2) Small epidemiologic associations are often spurious, rather than cause-and-effect relationships.
- 3) Regulations designed to solve one problem may have consequences that do more harm than good.
- 4) Scientists who are not popular activists are often marginalized and their important research is ignored.
- 5) Conflict of interest regarding power and funding exists between regulators and conforming scientists.
- 6) New regulations must be based on a fair evaluation of all available evidence from diverse sources.

Specific Concerns Regarding October 24, 2008 CARB Staff Report on PM 2.5 and Premature Deaths

- 1) Authors have no relevant peer-reviewed publications and lead author has misrepresented his "Ph.D."
- 2) Report and public comments were never shown to outside reviewers as stated in Executive Summary.
- 3) Five independent sources indicate no current relationship between PM2.5 and deaths in California.
- 4) California has fourth lowest total age-adjusted death rate among US states and few "premature deaths."
- 5) Diesel toxicity and fine particulate air pollution in California are currently at record low levels.
- 6) Before approving new diesel regulations, CARB should fully evaluate PM2.5 and deaths in California.

Conclusion

Important epidemiologic and toxicological evidence does not support adverse health effects of diesel claimed by CARB and new diesel regulations should be postponed until the above issues are fully and fairly evaluated.

The CARB board passed the rules unanimously. So much for the democratic process and scientific debate that results in good public policy.

John Dale Dunn M.D., J.D. is an emergency physician and policy advisor for The Heartland Institute of Chicago and the American Council on Science and Health of New York City.