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Mark Breslin

November 30, 2009

The Honorable Arnold Schwarzenegger  
Governor of the State of California  
State Capitol, 1<sup>st</sup> Floor  
Sacramento, CA 95814

Dear Governor Schwarzenegger:

On behalf of the 450 members of the Engineering & Utility Contractors Association (EUCA), who construct more than \$5 billion in California infrastructure annually, I write to strongly urge you to remove Chairwoman Mary Nichols from the California Air Resources Board and replace her with a Chair who will respect and uphold the public trust and do no harm to California's position as the global leader on environmental regulation. There are strong ethical and moral reasons for doing so.

In a November of 2008 letter to the California Secretary of the Environmental Protection Agency, Dr. Stan Young first questioned the credentials of Mr. Hien Tran, on whose study and analysis CARB would come to rely. The Environmental Protection Agency assured Dr. Young of Mr. Tran's credentials. On December 3 and 4 of 2008, UCLA professor Jim Emstrom alerted certain members of CARB to Mr. Tran's deceit; Mr. Tran in fact did not obtain his Ph.D. in statistics from U.C. Davis, rather, he received his mail order Ph.D. from a post office box in New York city. CARB staff was asked to investigate.

Subsequently, on December 10, 2008, Mr. Tran confessed to the falsification of his credentials. One day later, on December 11, 2008, the vote was taken on in-use on-road diesel rules using Mr. Tran's report. The adopted on-road diesel rules will have far reaching economic impact on nearly every industry in California. The full board was not aware of Mr. Tran's confession at the time of that vote, but Chairwoman Nichols was. In fact, the full board was not made aware of the issue until it was raised during public comment at the September 24, 2009 meeting at Diamond Bar.

In an era of increased governmental accountability and public awareness, the lack of truth and transparency in the CARB rulemaking process is egregious and inexcusable. As a respected leader of the green movement, you have placed our state at the forefront of these issues. Chairwoman Nichols' actions have compromised the

integrity of CARB, our state, and your office. Furthermore, her actions perpetuate the growing concern among Californians and others around the country that our state and CARB has an agenda that will be served at any cost.

The costs my members pay are real, and those costs are high. To date, EUCA members have spent in excess of \$35 million in an effort to comply with CARB regulations. And those dollars are being spent at a time when California Construction and employment is down in excess of 30-40%. But despite the extreme economic pressures our industry is facing, we still strive to comply. At the very least, we should expect that those who determine the rules be qualified and honest. From an industry that has already paid hundreds of millions to comply and anticipates spending billions more, honesty in leadership is not too much to ask.

The recent disclosures by both the Board and their staff have placed the intense spotlight of public scrutiny on California, CARB and the rules they are charged with creating and enforcing. Allowing Chairwoman Nichols to remain in her position tarnishes the reputation of our State and your leadership. Such a fundamental violation of procedure cannot, and should not, be tolerated.

I welcome any questions you may have and can be reached at (925) 855-7900.

Sincerely,



Mark Breslin  
Chief Executive Officer  
EUCA

cc: Susan Kennedy, Chief of Staff to the Governor

Honorable Karen Bass, Speaker of the House  
Honorable Darrell Steinberg, President Pro Tem  
Honorable Sam Blakeslee, Assembly Minority Leader  
Honorable Dave Cogdill, Vice Chairman, Senate Natural Resources and Water Committee  
Honorable Danny Gilmore, Vice Chairman, Committee on Natural Resources  
Honorable Dennis Hollingsworth, Senate Minority Leader  
Honorable Nancy Skinner, Chairwoman, Committee on Natural Resources  
Honorable Fran Pavley, Chairwoman, Senate Natural Resources and Water Committee  
Honorable Leland Yee, Assistant President Pro Tem  
Mr. Bill Davis, Southern California Contractors Association  
Mr. Tom Holsman, Association of General Contractors