

# CNV

CONTRACTOR NEWS & VIEWS

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## California's Air Resource Board Delays Judgement



May 25th Meeting "Productive"



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## **CA Air Resources Board comes to San Diego**

**California's construction industry unites against harsh regulations proposed by CARB's staff.**

**Written By: Allison Mason**



**Contractors showed up in droves, showing their support of the industry and their opposition to the proposed Regulation for In-Use Off-Road Diesel Vehicles. Associated General Contractors held a breakfast for those who showed up early enough (6:30 AM!) to secure spots in the hearing. This tactic worked very well, as the 375 seats available in the hearing were filled with mostly contractors. Additional seats had to be brought in to accommodate regulation supporters and environmentalists, as well as the contractors who continued to stream in. And this STILL didn't hold all attendees, since there were 50 or so lined up around the room. Many people commented on the great turnout. Kevin R. Carlin, from the Carlin Law Group attributed the turnout to the importance of the issue. He said this proposed regulation transcends union/non-union ties, as it will affect the construction industry as a whole. In speaking with Gary Rohman, ECCO Equipment**

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**CARB** continued from page 5

Corporation's Vice President, he noted the importance and permanence of this issue. ECCO has been working on this issue since 2000 and has been trying to do their part to clean the air, but the proper technology just isn't available yet.

Rohman also noticed the abundance of supporters at the hearing, stating, "The opposition hasn't even arrived and we are full!"

With people starting to head into the hearing room, which was split down the center to allow for speakers to approach the Board, I heard many joking, "Do we sit on the Bride's side or the Groom's?" But it didn't matter much because no matter where you sat, you were surrounded by contractors.

Outside, the Carpenter's Union was picketing with signs that read, "Think about our families" and "Jobs Environment Must Balance!" It was very dramatic to see these picketers enter the hearing room, like a parade— minus the floats and the oversized Snoopy balloons. Even though everyone felt passionately about the cause, the meeting was quite subdued. Roars of laughter were provided when Staff, the Board's research team, said things that were viewed as absurd, unreasonable, unfathomable, or just plain silly.



**Scott Johnson, Red Mountain Machinery (L) and Dan Fauchier, industry advocate, discuss strategy before the hearing begins. Both of these guys have worked very hard on this issue.**

The hearing started off with a breakdown of the proposed regulation. The Air Resource Board noted that nothing would be decided at that hearing, but in 60 days a final hearing and vote would be held in Sacramento on July 26th, allowing the Board to further investigate the proposed regulation and its flaws. Staff's assumption was that the construction industry had many misconceptions about the regu-

lation, along with misunderstandings of what will be required. Some of the highlights of the regulation include: 50% of those to be affected by this regulation are within the construction industry, and of that about 180,000 vehicles will be affected.

The Federal Government gave the Air Resource Board (ARB) the deadline of 2014 to reduce their Diesel Particulate Matter levels and the responsibility to come up with a feasible, enforceable, regulation. Companies are broken down based on horsepower, as are the timeframes given for compliance, labeling a small company as having 1500 Horse Power (HP) or less and needing to comply to regulations starting in 2015; medium companies have 1501-5000 HP and must start complying by 2013; and large companies having 5000 or more HP and having to start complying by 2010. These companies will need to meet particulate matter regulations or retrofit 20% of their fleet AND meet the oxides of nitrogen (NOx) regulations or give over 8-10% of their horsepower,

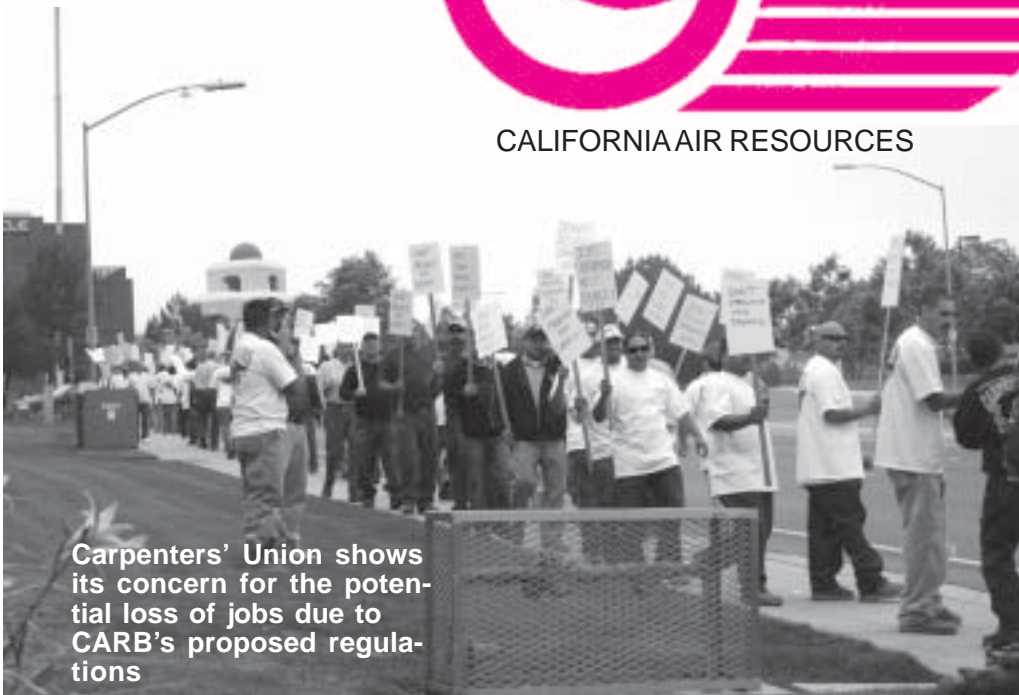
which, according to Staff calculations, should *only* cost \$3-3.4 billion total. Some exemptions from the regulation: low use vehicles, manufacturer delays, and attainment area vehicles (where the regulation is not enacted).

Now this is all under the assumption that the calculations are correct and the technology is available. When Staff discussed these topics, the crowd erupted with laughter in opposition. The Board asked what the worst-case scenario cost would be for a fleet of 80 engines at a total horsepower of

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CALIFORNIA AIR RESOURCES



**Carpenters' Union shows its concern for the potential loss of jobs due to CARB's proposed regulations**

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40,000, mostly Tier 0. Staff's response? \$6 million TOTAL. This is where the trouble lies.

Various speakers, including Red Mountain Machinery's California Sales Manager Scott Johnson and FCI's John Nelson (also member of AGC's Diesel Emission Task Force), addressed the Board and discussed how difficult it would be to implement these requirements in such a way where companies wouldn't be working out of their budgets or, even worse, go bankrupt.

Gordon Downs, from Downs Equipment Rental in Bakersfield, had a presentation that seemed to sum up the whole industry's concerns. According to the rates now available for retrofitting and replacement, putting his 44,819 horsepower fleet into compliance would cost \$2.5 million a year, totaling \$12.5 million for the total 5 years, which is double the Staff's estimated cost. This really got the crowd going, as well as the Board's attention. With costs like this the Board recognized that the need for funding, a price cap, and even a complete rethinking of the proposed regulation are pertinent.

Construction Industry Air Quality Coalition (CIAQC) held a lunch for those who attended the meeting and I was able to sit down with AGC's CEO Thomas Holsman and Executive Vice President Jim Ryan to get their view on the meeting. Ryan noted that the many questions asked by the Board shows that



**Construction industry members and supporters showed up in full force, including the Carpenters' Union with signs in hand.**



**Hawthorne's Mike Carcioppolo, of AGC's Diesel Emission Task Force, takes his turn at the podium to address CARB's board.**

they do not agree wholeheartedly with the regulation and are interested in working with the construction industry to remedy the problems. Holsman said the number of people who showed up for the meeting speaks volumes about the industry. He also noted all of the testimonies on behalf of the construction industry show the Staff's data is flawed. Holsman is optimistic and believes the 60-day period before the final ruling needs to be used to get information to the public and get top political officials to understand the regulation's impact on the construction industry and to secure a regulation that makes sense.

I was able to get in touch with CIAQC member Dan Fauchier after the meeting to see what the next step is in changing this regulation so it achieves the same goals without being detrimental to the industry. Fauchier said that the board has directed Staff to work with the construction industry on this because the Staff's proposition is unworkable. Some of the Staff members have already reached out to various speakers for a better understanding of the challenges the construction industry faces with their proposed timeline. Fauchier has hopes



Discussion continued over lunch, provided by CIAQC.

**CARB** continues from page 7 that a proposal can be created and adopted which achieves all of the same emissions goals by 2015, but extends the 2020 deadline to make it more a feasible solution. CIAQC is in the process of developing such a proposal, which will be more flexible with the timeline of the regulation. Fauchier emphasized his appreciation for the incredible turnout. He said all of the speakers were well spoken, intelligent, and put together and the 400 plus group was a great show of “solidarity, passion, and determination.”

Bill Davis, Editorial Consultant from Southern California Contractors Association, provided some comments on the meeting as well. He noted the spectacular turn out and how the San Diego construction community deserves a lot of credit for coming together on such an important issue. The construction industry’s message was clearly stated and the Board was receptive, but there is still a lot of work to be done to create a regulation that works.

Caltrans and the Department of Business, Transportation, and Housing need to be thanked for securing a second meeting in July and giving the industry a second chance to find a solution. Davis pointed out the Downs family, from Downs Equipment Rental, made their points clearly and factually, and was really representative of the family owned business. They were able to get the Board’s attention, even in the lousy formatted meeting which was not



**Bruce Wick of CalPASC presented compelling testimony at the hearing. See below.**

*“Your (CARB) staff is made up of very bright people...”*

*The construction industry is made up of problem solvers.*

*You don’t survive in construction if you don’t solve problems.*

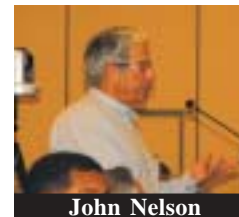
*Can we get those groups together and find a consensus?”*

Bruce Wick, testifying for CalPASC

conducive to getting serious information across. This made their achievement even more impressive. Engineering and General Contractors of America, Associated General Contractors, and the Building Industry Association need recognition for getting people involved and spreading the word about the meeting and the proposed regulation.

Jim Ryan of the San Diego Chapter of the Associated General Contractors said a number of San Diego contractors spoke...including AGC’s Diesel Emission Task Force Members, Scott Erreca, John Nelson, Steve Coker and Mike Carcioppolo.

Ryan sums up the hearing that on the whole, the industry speakers did an excellent job of detailing the industry’s positions that the proposed regulations: are too costly; the technology to comply is either not invented nor available; and the time frame for implementation needs to be extended.



**John Nelson**

Testimony by John Nelson of FCI Constructors, Inc. targeted the sentiments of many contractors. Nelson said,

“We do have the ability to work through these issues, we do have the ability to resolve these issues, we need time. I’m not sure that the numbers that we’re looking at from the economic standpoint are close on either side, but obviously there is a disconnect in the dollars, there

CARB continues on page 11



**CARB** continued from page 9 seems to be a disconnect in the time, there seems to be a disconnect in the technology in the ability to build the equipment that is necessary.”

Nelson adds, “...we need to sit down and come to a consensus—And I don’t think we can do it through email. We’re use to sitting down with our agencies that we work for or the owners that we work for, rather they be agencies or not. We deal with our union reps, when we negotiate with them. We’re negotiating all the time on issues and we come to resolve. I think what the previous guy said was true.. That’s what we do. We can do it and we can get this resolved.”



**Ron Roberts**  
CARB Photo

Unfortunately it appears that Ron Roberts, San Diego County Supervisor and local CARB member, does not share Nelson’s cooperative spirit. In Roberts final comments

of the day, Roberts says, “I have been sitting sitting and listening all day. My background is in construction. I worked locally in construction for many, many years and represented the BIA and other organizations so I have a background. I also belong to the group that carries these (Roberts holds up an inhaler that



**Dan Fauchier (L) and Mike Justice have given much of their time in support the industry on the CARB issue.**

he has in his coat pocket), and I have patiently listened to some of the most preposterous comments here today.

When I hear people get up and dismiss asthma as just having to lose a little weight, it just infuriates me. I work with

kids that can’t lose weight, and seniors that can’t lose weight. I hope there’s a wake-up call here because we are going to do something about this issue. And it’s not just about asthma... Diesel is a toxic contaminant. That means it causes cancer and a whole lot of other things. It’s not just about asthma... it’s about a whole lot of health issues in this state.”

Roberts warns the construction industry, “Some of you have given excellent testimony; I think it was the Down’s family and their company, that gives us some insight into what the problem is and how we can get to the solution. Others have their heads buried in the sand. And I hope that you use the time effectively because in July, I am looking forward to adopting a regulation.”

Debbie Day, Executive Director of Engineering and General Contractors Association of San Diego had a few comments of her own regarding Ron Roberts’ statements that the construction industry’s

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**Carpenters from the local Carpenters Union were on hand to let CARB know that harsh regulations currently being proposed could cause a loss of jobs and urged a more balanced approach to protect the environment.**

**CARB** continues from page 11 testimony was “less than convincing” and that they need to “get realistic” because diesel exhaust from construction equipment needs to be cleaned up.

“I was disappointed with Ron Roberts’ comments,” said Day, and also noted, “The industry has been working with the CARB staff for many months. It is obvious the staff has no clear understanding, from a business prospective, how to run a business... specifically, a construction company. Nor do they understand how many ways these regulations will impact construction companies.”

Day adds. “Working with the CARB staff has been a futile exercise. One of the major problems, is that its staff is not open to industry ideas or statistics.”

So what will happen next? Day concluded, “From his comments, Roberts obviously has no intention of giving the industry additional time to comply and it is clear he plans to vote for a proposal as it comes to the Board on July 26<sup>th</sup>.” Day says the industry needs to insure whatever proposal ends up going to the CARB Board on July 26 is one  
b o t h

CARB and the industry can agree on. To reach that compromise, the industry needs the opportunity to meet directly with CARB Board members in order to have a frank discussion and exchange of ideas that could possibly lead to an acceptable compromise.

Nothing was ruled on Friday, May 25<sup>th</sup>, but there will be a continuation of the hearing on July 26<sup>th</sup> in Sacramento. This is beneficial to the construction

industry because a) it shows the Board does not stand behind the current proposal as is, and b) the Board is willing to further investigate the negative affects of this regulation and its impact on the industry. However, it is expected that a final vote will be cast on the proposed regulation.

What does San Diego Supervisor Roberts suggest? “I think what you’ve got to do is you’ve got to get realistic, and work with our staff and get some recommendations that are going to work. There was too much of the testimony today that was far less than compelling. There is going to be some economic impact-- We don’t want to put you out of business, so help us understand the issues, because there **is** going to be a regulation.”

This battle may not be over, but it certainly is not looking good for construction. Keep up with your comments and letters to the California Air Resource Board!



*Stay tuned to Contractor News and Views for more information as it becomes available.*

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