

ADMINISTRATIVE POLICIES & COMPLIANCE
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May 27, 2009

PERSONAL & CONFIDENTIAL

Norman Brown
Delta Construction Company
P.O. Box 277517
Sacramento, CA 95827

Re: Your Allegations of Unethical Conduct by Two UCLA Professors

Dear Mr. Brown:

This responds to the letter and supporting materials you submitted to UCLA Chancellor Gene Block and to me on April 13 alleging certain unethical conduct by UCLA Professors Mary Nichols and John Froines related to their service on the California Air Resources Board (ARB). As I informed you on our recent phone conversation, UCLA has concluded that your concerns raise public policy issues only and not issues of potential research misconduct, as you contend, that would warrant an investigation under University policy.

Your concern is with what you described as a major on-going scientific dispute over the health effects of diesel particulate matter (PM) on Californians and recently approved ARB regulations reducing diesel truck vehicle emissions that will impose significant costs to your industry. You cite scientific arguments that the available epidemiological and toxicological evidence regarding such health effects does not justify the "draconian" regulations that were approved and the lack of independent verification of the evidence on which the ARB did rely. You cite a letter from California Assemblymen Chuck DeVore and Mike Villines and Senator Lou Correa which purports to provide scientific, legal, and economic justifications for the temporary suspension of the CARB regulations, and you attached to your letter a number of news, commentary, trade journal articles, and scientific references critical of the regulations.

You fault Mary Nichols, Chair of ARB and John Froines, Chair of the Scientific Review Panel on Toxic Air Contaminants that advises ARB, as most responsible for designating diesel PM as a toxic air contaminant based on an exaggeration of the adverse health effects of diesel PM on Californians. You assert that both Professors Nichols and Froines support the ARB claim that diesel PM contributes to 3,500 premature deaths per year in California and you refer to scientific arguments that such a claim ignores evidence of substantial geographic variation in the PM health effects within the United States and within California. As to each of the UCLA

Professors you allege the falsification of scientific evidence and a failure to follow California Health and Safety Code Sections 39670-39671.

In response, let me first point out that the University's investigative and disciplinary processes are limited generally to actions of our faculty and staff that occur within the course and the scope of their University employment. University faculty, in particular, are typically engaged in various scientific, cultural and other public service activities nationally and internationally. The University might have reason to examine the outside activity of an employee in circumstances where serious misconduct there reflects unfavorably on the University or where the employee's participation in the outside activity raises a question of an unresolved conflict of interest or commitment. But absent such circumstances the University does not investigate the outside conduct of its faculty or staff.

Secondly, the conduct you question here concerns the outside State government service activities of Professor Nichols in her role as Chair of the Air Resources Board and of Professor Froines in his role as Chair of the Scientific Review Panel. ARB board members are appointed by the Governor with the consent of the Senate. Such board members serve at the pleasure of the Governor. The Scientific Review Panel members are appointed by the Secretary of Environmental Protection (five members); the Senate Committee on Rules (two members), and the Speaker of the Assembly (two members).

The conduct of board and panel members in connection with their board activities is subject to oversight by agencies of the State government and the State legislature. Your concerns are with State governmental actions and are more properly addressed to the State entities responsible for appointing the board or panel members and overseeing the activities of the board. The usual administrative, legal, and political process remedies are available to those who wish to question or challenge State agency actions. It would be an improper confusion of roles for the University to investigate the actions of governmental agencies or its members, who happen to be faculty members, for the purpose of disqualifying or discrediting such faculty in the discharge of their government service responsibilities.

Third, your concern with the purported failure of our two faculty members in following the California Health and Safety Code section concerned with the terms of appointment for Scientific Review Panel members is misdirected to the University. Clearly, such concerns there should be directed to those State officials responsible for making such appointments, that is, as identified in the applicable statute and above, the Secretary of Environmental Protection, the Senate Committee on Rules, and the Speaker of the Assembly.

Lastly, your allegation of falsification of scientific evidence misconstrues the purpose and reach of our Policy for Responding to Allegations of Research Misconduct which you cited. This policy applies to research conducted by UCLA faculty or academic appointees under the sponsorship of UCLA and is narrowly focused on specific instances of fabrication of data, falsification or plagiarism. This policy is not used to settle bona fide scientific disputes over the interpretation of data.

You refer to evidence of falsification given in public rule-making comments and in scientific criticism published in the trade publication California Transportation News, including

Norman Brown
May 27, 2009
page 3

criticism in that publication by another UCLA public health professor. While this criticism includes charges of bad science, lack of independent verification of studies, and unwillingness by the ARB to address legitimate criticism, it does not support your charge that data was falsified, much less specific data in scientific research published at UCLA by our professors.

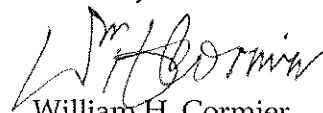
You criticize Professor Froines for being most responsible for emphasizing the adverse health effects of diesel PM in California, for failing to acknowledge or credit dissenting scientific views, and for his long tenure on the Scientific Review Panel which you believe violates the letter and spirit of the appointment statute. However, you do not present credible evidence that Professor Froines falsified research data. Your allegation of research misconduct by Professor Nichols is entirely misplaced since Professor Nichols is not a scientist and does not publish scientific research. As pointed out, your concerns about panel or board appointments should be directed to the appointing authorities.

Nevertheless, I referred your allegations of scientific misconduct to the UCLA's research integrity officer Vice Chancellor and Professor Roberto Peccei. Vice Chancellor Peccei conducted a preliminary assessment as called for under the policy and concluded that the information you have provided was neither credible nor specific enough under our policies to warrant a research misconduct inquiry.

You have presented much credible evidence that there is an ongoing scientific dispute over the health effects of diesel particulate matter with different interpretations of the available data and with significant implications for the transportation industry and the economy generally. However, the thrust of the issue appears to concern State government agency decision-making as related to the formation of environmental policy. In any event, your issues do not raise specific research misconduct concerns and the University must reject your request to treat them as such.

I appreciate the care with which you organized the materials you submitted and the opportunity to discuss this matter with you personally.

Sincerely,



William H. Cormier
Director

cc: Chancellor Gene Block
Vice Chancellor Roberto Peccei