

<http://www.bakersfield.com/news/columnist/henry/x1902890284/Politics-air-rules-make-for-a-smelly-situation>

The Bakersfield Californian February 20, 2011

LOIS HENRY: Politics, air rules make for a smelly situation

The Bakersfield Californian | Saturday, Feb 19 2011 10:00 PM

Last Updated Saturday, Feb 19 2011 10:09 PM

This story is a depressing testament to how -- as you've always suspected -- nothing every really changes in the bowels of state government.

Last summer, several de facto lifetime members of a powerful but obscure panel in California's air pollution regulation arena were publicly booted as the state faced a lawsuit over their improperly long tenures.

Finally, many thought, the panel would have fresh blood, new perspectives.

But at this year's first meeting of that panel two of the bootees, including the panel chairman, were wondrously restored to their seats, leaving observers shaking their heads. I'm talking about the Scientific Review Panel of Toxic Air Contaminants.

I know, you've never heard of it. But this panel has a direct impact on your cozy little life, so read on.

It was the review panel that declared in 1998 that diesel exhaust, specifically diesel particulate matter (specifically PM2.5 tiny bits of soot and ash), is dangerous to humans.

That pronouncement teed up the regulatory push by the California Air Resources Board (CARB) to severely restrict emissions from diesel trucks and heavy equipment. The rules have been delayed until 2014 for a number of reasons, not the least of which is that CARB staff vastly overestimated how much those vehicles contribute to air pollution.

But the rules will come to pass.

Which means unless you wear animal skins and eat grubs, you'll be paying way more for anything (food, medicine, furniture, etc., etc.) that comes to you by way of truck as owners struggle to pay for expensive retrofits or whole new fleets.

I've argued numerous times that more and more evidence is showing diesel PM2.5 may not be the killer CARB and the Scientific Review Panel have made it out to be.

Setting that aside for the moment, I think it's important to know who's on the Scientific Review Panel.

The Pacific Legal Foundation thought so too and after discovering several members had been serving since the Reagan administration (the first one) without going through the proper vetting

and nomination process, they sued the state. Yes, the foundation is a conservative group funded in part by the trucking industry.

That doesn't negate their point that, by ignoring nomination procedures, the review panel and the public have been effectively denied the benefit of having new people with innovative ideas and fresh thinking participate.

The state took heed and last July five members, including chairman and UCLA professor John Froines, were summarily kicked off the Scientific Review Panel.

Froines' reinstatement is especially galling to many industry groups because he has been a longtime, outspoken activist on the supposed ills of diesel exhaust.

Froines, a left of left liberal whose activism goes back to the radicalism of the 1960s, also directs the Southern California Particle Center, dedicated to proving how diesel PM2.5 hurts people. I don't understand how that's not a huge conflict of interest.

See, the Scientific Review Panel also approves methodologies for government-funded studies. Froines' Particle Center conducts just those sorts of government-funded studies.

So, not only is he in a position to shut down any oppositional research, he can also churn out practically unlimited "science" to support his own theories that diesel = bad.

Which then revs up CARB's regulatory engine and results in higher costs for you and I in exchange for questionable, at best, health benefits. Clearly, it's become a closed system.

It has a direct impact on how we live and we, the people funding this system, have almost no recourse in how it operates.

Critics had thought Pacific Legal Foundation's lawsuit punched a hole in the system last summer. And, indeed, a new person had been appointed as chair of the Scientific Review Panel, but only briefly.

Assembly Speaker John Perez appointed UC Irvine professor Michael Kleinman to replace Froines on July 22 after receiving a list of eligible candidates from the University of California office of the President.

Kleinman, like Froines, was eminently qualified and was looking forward to serving on the panel. Then around Sept. 8, he told me, the Speaker's office called and asked him to step down.

He was told the UC president's office erroneously thought it could not resubmit Froines' name because of his previous tenure. When it was determined Froines' could be a candidate Kleinman was asked to resign. The Speaker got a new set of names from the UC, which included Froines, and the deal was done.

Kleinman characterized the entire episode as strange and "highly charged."

Neither the UC President's office nor the Speaker's office would cop to having been lobbied to

put Froines back on the panel. But I say that's exactly what it smells like.

"It does seem like an end run," said Pacific Legal Foundation attorney Damien Schiff, though he admitted that if they went through the proper procedures the state is within the letter of the law.

Even so, he said, his clients object to Froines' appointment as violating the intent of the Scientific Review Panel, which was supposed to be free of politics and strictly adhere to science.

Instead, the head of the UC and the Assembly Speaker practically twisted themselves into knots to put Froines back in charge, even though other, highly competent, people were ready and willing to serve.

CARB has made a series of gaffes in recent years such as overestimating diesel emissions. The number of deaths attributable to PM2.5 was also over inflated, it turned out. And CARB chairwoman Mary Nichols admitted she withheld key information from fellow board members that the author of a health report used to justify the diesel rules lied about his credentials until after they voted for the rules. Given all that, you'd think the state would at least want to appear to be playing fair.

But mixing power, arrogance and politics doesn't often result in "fair."

Opinions expressed in this column are those of Lois Henry, not The Bakersfield Californian. Her column appears Wednesdays and Sundays. Comment at <http://www.bakersfield.com>, call her at (661) 395-7373 or e-mail lhenry@bakersfield.com