

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD
SCIENTIFIC REVIEW PANEL

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
SIERRA HEARING ROOM, 2ND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 16, 2012

10:41 P.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

APPEARANCES

PANEL MEMBERS

John R. Froines, Ph.D., Chairperson

Jesús A. Araujo, M.D., Ph.D.

Paul D. Blanc, M.D.

Alan R. Buckpitt, Ph.D.

Katharine Hammond, Ph.D.

William Nazaroff, Ph.D.

Beate Ritz, M.D., Ph.D.

REPRESENTING THE AIR RESOURCES BOARD:

Mr. Peter Mathews, SRP Support Administration

REPRESENTING THE OFFICE OF ENVIRONMENTAL HEALTH HAZARD
ASSESSMENT:

Dr. Andrew Salmon, Chief, Air Toxicology and Risk
Assessment Unit

Dr. Joseph P. Brown, Ph.D.

Dr. Melanie Marty, Deputy Director, Scientific Affairs

INDEX

	<u>PAGE</u>
1. Consideration of proposed acute, 8-hour, and chronic Reference Exposure Levels for 1,3,-butadiene (September, 2012)	1
2. Consideration of a request that the Scientific Review Panel receive oral testimony in its meetings.	87
3. Consideration of administrative matters.	
Adjournment	106
Reporter's Certificate	107

1 to, if we had the time, just very briefly mention to the
2 panel some of the things that we've got coming down the
3 road over the next six months or so. Is this a good
4 moment to address that or would you rather I waited?

5 PANEL MEMBER BLANC: I would like -- if we just
6 get a sense. We have one other thing that's on the
7 agenda, which is discussing whether or not this panel
8 would consider oral testimony.

9 I think you have to leave soon. So if that's
10 going to be a brief discussion, it would be great if you
11 would be here for it.

12 PANEL MEMBER HAMMOND: I did have one other thing
13 I wanted to mention. That is I understood that we had to
14 get written comments at least two weeks before our
15 meetings. I felt that was something we had true in the
16 past.

17 CHAIRPERSON FROINES: You're absolutely right.
18 That was a policy that we established some years ago. And
19 then I was told by legal counsel that industry can submit
20 or anybody can submit anything right up to the meeting.
21 So I would have been basically told -- and Jim can correct
22 me if I'm wrong -- but I've been told they can send it the
23 day before. So that's the bottom line.

24 I think, for example, with ACCC, Jim ought to
25 take a minute and talk to them and say we would like this

1 not to happen again because it's inappropriate. But you
2 can't cover every public body or corporation to get that
3 kind of agreement.

4 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
5 CHIEF SALMON: The ACC comments were received by e-mail
6 sometime yesterday by us. And it would appear from the
7 timing of the e-mail that was, in fact, sent probably
8 within an hour or two of close of business on the east
9 coast yesterday.

10 CHAIRPERSON FROINES: Well, you know, the Panel
11 has the right -- the Panel could have said in this meeting
12 today we got these things a day ahead. We didn't have
13 time to read them, so we're not going to talk about them.

14 But the trouble is we have a group of people who
15 are hard working, so they did look at them. But we have
16 the option to say go fly a kite.

17 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
18 CHIEF SALMON: Our approach is simply we try to deal with
19 it as best we can.

20 But it's quite obvious that the intent of the
21 that mode and timing of submission is to minimize our
22 opportunity to make constructive comment on the issue.
23 And to a large extent, they succeeded.

24 PANEL MEMBER BLANC: But I think that's a good
25 segue to the next item, if we could discuss that before

1 Andy tells us about what's coming down the pipeline.

2 CHAIRPERSON FROINES: But I just want to say that
3 we will -- if we get comments late, we'll do the best we
4 can. And if we can't do them, we won't. So we will deal
5 with it as we best can within the limited time frame we
6 have.

7 So go ahead, Andy.

8 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
9 CHIEF SALMON: Do you want to segue?

10 PANEL MEMBER BLANC: My discussion is he not do
11 his presentation of what's coming down the pipe and we
12 discuss the oral testimony issue.

13 CHAIRPERSON FROINES: Oh, I'm sorry. I missed
14 that, didn't I?

15 Okay. So this is a matter for the panel, not for
16 OEHHA.

17 There has been a request by a citizen that we,
18 this Panel, take verbal testimony. The Panel has been in
19 existence since 1983. So what's that? Thirty-three years
20 or 30 something.

21 PANEL MEMBER NAZAROFF: Almost 30, 29.

22 CHAIRPERSON FROINES: And during that time, we
23 have never taken public commentary. We felt that it was
24 more effective for the level of work that goes on with
25 this Panel that taking public testimony as well would

1 defeat the quality of the work and the efficiency of the
2 Panel. So we have never taken public testimony.

3 There is a law -- and I'll read it to you. The
4 law on toxic air contaminants, which created this Panel,
5 is found in Chapter 3.5, Article 3, of the Health and
6 Safety Code, and contains such a conflicting -- contains
7 the following provision. "This law provides that any
8 person may submit any information for consideration by the
9 SRP which may, at its discretion -- at its discretion,
10 receive oral testimony."

11 Now, there is another law, the Bagley-Keene Open
12 Meeting Act, which says that meetings should allow for the
13 public to testify. So there is -- on a legal basis, there
14 is a contradiction.

15 However, it would appear that it's up to us to
16 decide whether we want oral testimony. And so we need to
17 decide -- we need to decide whether or not we want oral
18 testimony. And Paul has been on the Committee the longest
19 besides me and so I'll ask him to comment based on his
20 experience.

21 PANEL MEMBER BLANC: I think the person writing
22 the request is of the opinion that having such testimony
23 would assist our deliberations, and I do not believe that
24 would be the case.

25 I would be strongly opposed to a set and standard

1 policy of oral testimony for brief periods. We certainly
2 have had invited scientific experts to come at various
3 times and present information for the purposes of aiding
4 our discussion. And that was at our discretion and may
5 arise again. But that's a very different context and
6 content than an open mike presentation.

7 We have gone through a period of diminishing
8 resources where the meetings in and of themselves are less
9 frequent and where the resources provided for the State
10 for having the meetings conveniently and not just in
11 Sacramento be taken away. And I think this would just
12 further compromise our function and to take up very
13 valuable time that we don't have.

14 We serve essentially as volunteers with per diem.
15 It takes us away from our other. Work coming to
16 Sacramento makes it more odious. And so I would oppose
17 this in as strong as possible terms. I would oppose any
18 change in the status quo in the strongest possible terms.

19 CHAIRPERSON FROINES: Kathy, you've been the
20 second longest person. I can't speak to Stan. I could
21 hint, but I won't.

22 PANEL MEMBER HAMMOND: In general, I tend to feel
23 that it's good to receive input from as many people as
24 possible. That's my basic bias in doing this. From that
25 point of view, I would be in favor of it.

1 However, I share Paul's concern quite deeply that
2 this is a Committee that has a lot of work to do with very
3 limited time. All of us are extremely busy. And I'm
4 going to have to leave shortly for another prior
5 commitment. So it's really hard for us to get to do the
6 work that we have to do, and I just don't see how we would
7 have time to be taking oral testimony.

8 If there were a need for it, perhaps provision
9 could be made that some people could make oral testimony
10 before some State employees who could videotape it and
11 that could be available to those that want to look at it.
12 But I think for our time together, we need to use that for
13 the interactions that I find relevant.

14 CHAIRPERSON FROINES: Just for the information of
15 people who are newer, when we did diesel exhaust in 1998,
16 we actually held a public workshop, and we had guest
17 speakers from a wide range of disciplines. And it was
18 very effective. And we had the option that we had thought
19 we wanted a workshop on butadiene. There's nothing to --

20 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
21 CHIEF SALMON: They were two workshops on butadiene REL,
22 which we held during public comment period.

23 CHAIRPERSON FROINES: All I'm saying --

24 PANEL MEMBER HAMMOND: There always are.
25 Actually, that's a very good point Andy brought up. They

1 always have -- there are always public meetings where
2 people can speak about these. And this is information in
3 a way that doesn't come to the Panel.

4 CHAIRPERSON FROINES: That is a very good point,
5 but I want to emphasize that we, as a Panel, had a
6 workshop. It was our workshop. We invited the speakers.
7 And we -- so, yes, there were diesel. God, I don't know
8 how many workshops there were that you guys put on. So
9 there's always been workshops or discussions. But in this
10 case, I'm just simply referring to the Panel itself.

11 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
12 CHIEF SALMON: Would the Panel be interested in a greater
13 level of participation in the regular workshops which we
14 organize already?

15 PANEL MEMBER BLANC: No.

16 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
17 CHIEF SALMON: Okay.

18 CHAIRPERSON FROINES: I think it's up to the
19 individual.

20 PANEL MEMBER HAMMOND: Just be informed of them.

21 CHAIRPERSON FROINES: I don't want to -- I'll
22 give Beate, the new person the chance.

23 Bill.

24 PANEL MEMBER NAZAROFF: So I don't have a lot to
25 add, except to make my views I guess known.

1 I think Paul expressed ideas that I share,
2 although with greater vigor than I would have expressed
3 them myself. And I share Kathy's perspective that
4 government should be open in so far as we can make it
5 open. But I think in the instance of the operation of
6 this Committee, we accept all things written. I think
7 that's as open as we need to be. And so I would favor
8 maintaining the way we've been operating.

9 CHAIRPERSON FROINES: Thank you.

10 Jesús.

11 PANEL MEMBER ARAUJO: Yeah. I also agree with
12 comments that have been expressed.

13 And one concern though is whether what they're
14 trying to do is that they can find, like, a better way of
15 communicating their points to the Panel, which sometimes
16 in the written mode it is difficult to just write it. And
17 I don't know whether they could perceive the Panel is not
18 being responsive to what they're asking.

19 So I wonder whether it is something that could be
20 between the lines with these requests. And if they're
21 asking -- for instance, suggest to the Panel address this
22 or does that. And so maybe we should in those instances
23 be more explicit because of the specific point they're
24 making and respond even directly to the people who are
25 addressing us. So in that way so they can be some

1 improvement in the communication without opening the
2 channel for the less desirable comments to the Panel.

3 CHAIRPERSON FROINES: So I'm hearing you say we
4 won't have oral testimony, but we'll find ways where we
5 can improve the communication with the external bodies.
6 I'm not sure that would work. Help me here.

7 PANEL MEMBER ARAUJO: Yeah, what you're saying is
8 exactly right. I agree in not taking the available
9 testimony, but exploring on ways how the Panel can
10 communicate better with the petitioners, so with the
11 people who have questions. And whether it is that we make
12 an effort in addressing the questions as someone asks and
13 we make a response. And that is going to be certainly
14 recorded.

15 Or -- I mean, what I'm seeing is many times the
16 comments are already addressed by OEHHA. And we find them
17 that they -- an address has been made to the comments is
18 satisfactory so there is no need to discuss them. And
19 perhaps the people who are raising those questions would
20 want the Panel to discuss the points in the record.

21 PANEL MEMBER BLANC: We do. It's reflected in
22 our record.

23 And I think the way I would interpret your point
24 is that we should always be sensitive to when we get the
25 presentation from OEHHA, their responses to the comments

1 which are almost universally corporate critiques, not
2 members at large of the public, that we do our due
3 diligence and make sure the record reflects our vetting of
4 the OEHHA response. I think we actually do that fairly
5 well.

6 But I certainly wouldn't support us engaging in
7 direct dialogue with people who submit those comments.
8 Those are comments that would be -- on our record should
9 reflect our scientific review of OEHHA's response. But
10 that's our role. And it's something we should stick with.

11 CHAIRPERSON FROINES: I think we also have to be
12 careful about the snowball rolling down the hill. And
13 that is once you start letting people testify, there's no
14 clear endpoint for what that is going to end up doing and
15 it could end up taking enormous amounts of time.

16 I should say, I chaired the National Toxicology
17 Program Committee on carcinogenesis. I would, as Chair,
18 for example, I think we took up trichloroethylene and we
19 had maybe consultants from industry. There may have been
20 15 -- 10 to 15. Well, it destroyed the scientific
21 discussion of the Committee, because we felt like we were
22 being hit over the head with a baseball bat with so many
23 interested parties. And there was no science. The
24 science fell by the wayside, because everybody started to
25 get very defensive and reactive. And it was my experience

1 was that it really did have a profound effect on the
2 success and failure of that Committee. And I just would
3 hate to see that sort of thing happen again.

4 So I've seen the same thing with the Carcinogen
5 Identification Committee when I Chaired it -- I didn't
6 Chair it. I was on it. Again, the quality of the
7 discussion has to be guarded I think so that we have the
8 with -- the success of this Committee is the quality of
9 the science. And we need to preserve that I think.

10 I'm sorry. I shouldn't have taken your --

11 PANEL MEMBER BUCKPITT: No. I can't add anything
12 to that. I think you bring up a very valid point. This
13 could get to be very quickly out of hand. I agree with
14 Kathy that government needs to be open, but I think in the
15 transcripts they can understand what is done in this
16 Committee. They do have the opportunity to submit written
17 comments.

18 CHAIRPERSON FROINES: So do we need to take a
19 vote?

20 PANEL MEMBER HAMMOND: Let Beate speak.

21 PANEL MEMBER BLANC: Do you have anything to add,
22 Beate?

23 PANEL MEMBER RITZ: No. I like written comments.

24 PANEL MEMBER BLANC: I would say that this
25 discussion reflects consensus among the Panel as an

1 entirety that we do not wish to change the status quo.

2 And we will not be receiving oral testimony.

3 PANEL MEMBER HAMMOND: And I'd like to add that
4 we encourage people to participate in the workshops that
5 OEHHA has, the public workshops, so there is a opportunity
6 for public.

7 CHAIRPERSON FROINES: So it's sufficient not to
8 take the vote, but take your words as the position of the
9 Committee.

10 PANEL MEMBER BLANC: I think the transcript
11 reflects there is unanimity of views, yes.

12 CHAIRPERSON FROINES: Thank you. That was a very
13 good discussion of a potentially difficult issue.

14 PANEL MEMBER BLANC: Okay. Andy.

15 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
16 CHIEF SALMON: Well --

17 CHAIRPERSON FROINES: Thank you, Kathy, for
18 spending more time than you had.

19 PANEL MEMBER BLANC: We'll tell you what he said.

20 OEHHA AIR TOXICOLOGY AND RISK ASSESSMENT UNIT
21 CHIEF SALMON: I'll make this as brief as possible,
22 obviously.

23 But yeah, I just wanted to say that the big thing
24 which we're working on the moment is the official title is
25 the Hot Spots Risk Assessment Guidance Manual, as it's