



February 9, 2009

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Via US Mail, Facsimile and E-Mail

Commissioner James D. Boyd
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Docket Number 07-HFS-1
Fuel Delivery Temperature Study

Dear Commissioner Boyd:

This letter is directed to you in your capacity as the Presiding Member of the CEC Transportation Committee. The Transportation Committee, consisting of Commissioner Karen Douglas and yourself, is overseeing the Fuel Delivery Temperature Study required under AB 868. AB 868 directed the CEC to conduct a cost-benefit analysis and comparison of various options relative to the delivery of temperature compensated motor fuels, both gasoline and diesel, to California consumers and to make recommendations to the Legislature regarding

future legislation and regulations including the installation of automatic temperature compensation equipment at retail fuel pumps.

The installation of automatic temperature compensation equipment at California retail motor fuel pumps is strongly opposed by oil companies and other motor fuel retailers since it will require them to expend millions of dollars. Consumer groups support the use of such equipment since such equipment will provide transparency and save consumers millions of dollars in motor fuel purchase costs.

California law requires you to withdraw from further participation in this CEC proceeding due to your conflict of interest as a result of income that you share with your spouse, Catherine Reheis-Boyd. Government Code §87100, 87103(c) As you know, Reheis-Boyd is the chief operating officer and chief of staff for Western States Petroleum Association (“WSPA”) and has been employed by them for almost twenty years. She is recognized internationally as a “big oil” lobbyist.

WSPA is the oldest petroleum trade association in the United States and represents oil companies that account for the bulk of petroleum marketing in California. See, www.wspa.org/what-is-wspa.aspx. The WSPA advocates for petroleum marketers before the legislature and regulators in California. It works closely with other oil industry trade associations such as the American Petroleum Institute and the Petroleum Marketers Association of America, including PMAA national member California Independent Oil Marketers Association. Its members include Chevron, BP, Conoco Phillips, ExxonMobil, Shell, Tesoro, and Valero, among others.

Under the Political Reform Act, appointed California officials must perform their duties in an impartial manner and free of bias caused by their own financial interests. They must also avoid the appearance of impropriety in conducting their governmental work. In determining whether an appointed official such as yourself may be biased, your source of income is a relevant inquiry. As an appointed Commission member, your income includes your community property interest in Reheis-Boyd’s income for purposes of determining whether the source of such income may create a bias or the appearance of impropriety for you.

Under the Act, the relevant threshold amount, in terms of Reheis-Boyd’s income from the WSPA, necessary to raise a direct conflict is one thousand dollars. Of course, Reheis-Boyd is a highly paid executive and earns significantly more than one thousand dollars each year from the WSPA for her work on behalf of the oil industry.

There can be no question regarding the strategic import for petroleum marketers in having the CEC study (over which you are presiding) conclude that installation of automatic temperature compensation equipment at retail motor fuel pumps is not necessary. It is a key industry issue and millions of dollars in profits are at stake. This is an issue on which the oil industry and California consumers have opposing interests.

Because of the financial interest that you share with Reheis-Boyd, there is an appearance of impropriety when you are presiding over a CEC study where a recommendation against the installation of automatic temperature compensation equipment can result in the continuation of a million dollar profit windfall to the petroleum marketing industry for which your spouse has advocated for almost twenty years. Because of the significant amount that the WSPA income contributes to your community property interest in Reheis-Boyd's income, materiality for purposes of creating a bias can be presumed under California law. Government Code §18705.3

We regret having to bring this issue to your attention. We expect that you will take appropriate steps prior to the February 11, 2009 hearing on the study to announce your recusal.

Very truly yours,



CONSUMER WATCHDOG

(Tyson Slocum, signature on file)

PUBLIC CITIZEN

CC:

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