



March 16, 2009

Gov. Arnold Schwarzenegger
State Capitol Building
Sacramento, CA, 95814
Also via facsimile: 916 445-4633

Dear Gov. Schwarzenegger,

You have put a focus on political ethics in recent weeks in the wake of a series of ethical breaches within your administration. You were right to crack down and demand higher standards of your appointees. We ask that you continue to apply this new standard and examine a disturbing economic conflict of interest affecting one of your appointees to the California Energy Commission, James Boyd.

The attached complaint to the California Fair Political Practices Commission describes Mr. Boyd's inherent conflict in detail. We request that you seek his voluntary resignation from the Commission.

In summary, Commissioner Boyd's spouse, Catherine Reheis-Boyd, is a top executive of and registered lobbyist for the Western States Petroleum Association (WSPA). The association's members include all of the major integrated oil companies and/or their refining arms in California, and its members hire, fire and determine the salaries of the top two executives, including Mrs. Boyd.

Commissioner Boyd recently declined to recuse himself from leading a CEC study on the costs and benefits of requiring automatic adjustment at the gas pump for variations in fuel temperature, which are acknowledged to cost California consumers about \$400 million a year. The study, depending upon its findings, and any ensuing legislation could have a substantial economic effect on refiners, including those of the integrated companies. The integrated oil companies and independent refiners that comprise WSPA actively sought to stop the CEC study from recommending temperature compensation at retail. With Mr. Boyd's participation, as described in documents obtained by Consumer Watchdog under the Public Records Act, they succeeded. As you will see in the letter to the FPPC, Mr. Boyd successfully demanded changes to the findings drafted by the expert staff at the Energy Commission, which led to a radically different set of conclusions about the problem of "hot fuel."

Gasoline expands as it warms, offering less energy when dispensed only by a measured gallon. This causes harm to California motorists because:

- The lack of temperature adjustment (which is used in Canada and increasingly in Europe) is fundamentally unfair;

- Because motorists do not know the temperature of the fuel at any gas station, and cannot judge the best value because hotter gasoline provides less energy.
- The average temperature of gasoline in California is more than 10 degrees above the federal “reference temperature of 60 degrees.”

This is not a trivial matter. It is a deception in the method of sale that provides retailers with extra gallonage to sell, untaxed by the state and at a pure profit. The state as well as consumers lose. Yet when the staff proposed their findings that reform could benefit the public, Commissioner Boyd intervened and ordered the call for reform removed from the study.

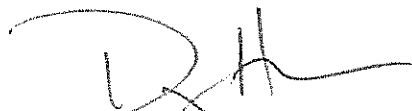
Mr. Boyd’s documented financial interest in his spouse’s substantial salary is cause for his recusal in any matter financially affecting the petroleum industry members of WSPA. Though Mr. Boyd received one advice from the FPPC that he should recuse himself from the hot fuel study, the CEC general counsel later sought and received a different decision on very narrow grounds. Mr. Boyd’s unwillingness to step aside and relieve the public of even an appearance of a conflict was wrong and indicates that his industry advocacy will cast a lingering cloud over his continued work on the Commission.

Given Mr. Boyd’s actions that favored the oil industry in the CEC study, we ask that you seek his voluntary resignation from the Energy Commission, and that you replace him with a commissioner more aware of the ethical constraints of an open government.

Sincerely,



Judy Dugan
Research Director



Douglas Heller
Executive Director