

COMMITTEE WORKSHOP  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of: )  
)  
Proposed Adoption of Regulations for ) Docket No.  
the Administration of the Alternative ) 08-OIR-1  
and Renewable Fuel and Vehicle )  
Technology Program )  
\_\_\_\_\_ )

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

MONDAY, AUGUST 11, 2008

10:10 A.M.

**ORIGINAL**

Reported by:  
Peter Petty  
Contract No. 150-07-002

<b>DOCKET</b>	
08-OIR-1	
DATE	AUG 11 2008
RECD.	AUG 13 2008

COMMISSIONERS PRESENT

Karen Douglas, Associate Member

ADVISORS PRESENT

Susan Brown

Kelly Birkinshaw

Diana Schwyzer

STAFF and CONTRACTORS PRESENT

Charles Mizutani

Aleecia Macias

Jared Babula

Mike Smith

CALIFORNIA PUBLIC UTILITIES COMMISSION

Andrew Panson

California Air Resources Board

ALSO PRESENT

Joe Sparano

Western States Petroleum Association

Dave Modisette

California Electric Transportation Coalition

James L. Stewart

BioEnergy Producers Association

Scott Bergquist

Propulsion Brothers

John Shears

Center for Energy Efficiency and Renewable  
Technologies

ALSO PRESENT

Kurt Schuparra  
California Strategies  
representing Next Fuels

Bonnie Holmes-Gen  
American Lung Association, California

Danielle Fugere  
Friends of the Earth

Gina Gray (via teleconference)  
Western States Petroleum Association

Carol Sturbin (via teleconference)

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## P R O C E E D I N G S

10:10 a.m.

ASSOCIATE MEMBER DOUGLAS: Very good, everybody. Thank you for bearing with us; I'm sorry we're starting a couple minutes late.

My name is Karen Douglas; I'm the Associate Member of the Transportation Committee. Unfortunately, Commissioner Boyd, who is the Presiding Member of the Committee, wasn't able to be here today. He had a family issue and just had to attend to it. So, I will be presiding over this workshop today. And obviously we will very quickly bring Commissioner Boyd into the loop in terms of what transpires today.

I wanted to make some very brief opening remarks and then turn the workshop over to staff. Today we are going over draft regulations on the topics that we previously sent out proposals on, except for the sustainability goals. We've decided to have a series of workshops to -- or working group meetings in order to further define and get more input on our sustainability goals.

The next working group meeting will be this Friday, the 15th of August. And I was just handed the notice. If anyone doesn't have it, we

1 can certainly get it out to people. But it will  
2 begin at 9:00 a.m. here, and we're hoping that  
3 this process will allow us to further vet and get  
4 input on this particular topic.

5 I would like to also make a couple other  
6 procedural announcements before we start. The  
7 next Advisory Committee meeting is scheduled for  
8 September 2nd. But what we would like to do is  
9 move that out about a month to October 6th in  
10 order to insure that we have a solid next draft of  
11 the investment plan out to everybody significantly  
12 in advance of the meeting. We're aiming for ten  
13 days in advance, but we would -- at least ten days  
14 in advance, but we would certainly like to get it  
15 out much further in advance if we're able to do  
16 that. We think an October 6th meeting allows us  
17 to do that.

18 Advisory Committee members and others,  
19 though, please keep September 2nd on your calendar  
20 because there is a good possibility that we'd like  
21 to set up either a WebEx meeting or a conference  
22 call with the Advisory Committee on September 2nd,  
23 since we've already got the date in everybody's  
24 calendars.

25 And I think that's it for the procedural

1       rundown. Mike, or anyone, do you have anything to  
2       add on process?

3               MR. SMITH: No, not at this point,  
4       Commissioners.

5               ASSOCIATE MEMBER DOUGLAS: Great. In  
6       that case I'd like to turn to the first item on  
7       the agenda, the second one after my introductory  
8       comments, which is for Chuck Mizutani to go over  
9       our proposed draft regulatory language. Chuck,  
10      please.

11              MR. MIZUTANI: Thank you, Commissioner.  
12      I wish I was taller.

13              (Laughter.)

14              MR. MIZUTANI: My name is Chuck  
15      Mizutani; I'm in the fuels and transportation  
16      division here at the Energy Commission.

17              Just a couple of housecleaning things to  
18      mention. The restrooms are outside the hearing  
19      room to your left. And also a set in the back on  
20      your right. If, in case of an emergency and we  
21      have to vacate this building, if you could follow  
22      the staff outside the doors and over to the park  
23      across the street, that would be a good thing to  
24      do.

25              My understanding is that there's people

1 on WebEx, as well as on the phone. And we will  
2 un-mute you, I think, during the discussion  
3 period.

4 And with that, my presentation. The  
5 program goals for the alternative and renewable  
6 fuel and vehicle technology program is to develop  
7 and deploy innovative technologies that transform  
8 California's fuel and vehicle types to help attain  
9 the state's climate change policies.

10 In doing that, the Commission opened up  
11 an order instituting regulations to do rulemaking  
12 that would develop and adopt regulations to  
13 clarify ambiguities in the statute, as well as to  
14 create certainty in administering the program.

15 We have a two-phased -- two phases. The  
16 current phase is what I would define as the  
17 informal phase, in which we developed our  
18 regulatory concepts; and also today we've drafted  
19 regulatory language and are seeking public input  
20 on the regulatory language.

21 After this workshop we will -- our plan  
22 is to finalize our regulatory language and put  
23 together a package that then institutes the formal  
24 phase, which is to submit our regulatory language  
25 proposal package to the Office of Administrative



1 Law.

2 Just for your information, the timeline  
3 that we're looking at in terms of developing the  
4 new regulations are August 11th, today. We are  
5 holding a workshop to gather input on the draft  
6 regulatory language on four areas.

7 The fifth area, sustainability goals,  
8 will be a discussion for a future Committee  
9 workshop.

10 On August 15th one of the things  
11 preparatory to that workshop is that there is a  
12 sustainability working group meeting that will be  
13 held, as Commissioner Douglas pointed out, on  
14 sustainability goals here at the Energy Commission  
15 in Hearing Room A.

16 After that on August 25th we will post  
17 the sustainability language, regulatory language,  
18 for a September 9th Committee workshop, again to  
19 gather input on the proposed language.

20 There will be ten days to submit written  
21 comments on the proposed language, after which our  
22 goal is to then convert that into a package that  
23 we would submit to the Office of Administrative  
24 Law on October 7th.

25 At that time they have ten days to

1 publish a notice of proposed action, and that  
2 begins the 45-day public review and comment  
3 period, which ends on December 1st.

4 We would then submit that material to  
5 our contracts office on December 8th for a January  
6 14th business meeting adoption.

7 And then after that we would submit the  
8 package to -- or final statement of reasons to the  
9 Office of Administrative Law. And after 30 days,  
10 which is March 2nd, their review would be  
11 completed.

12 Given that, the OAL would then publish  
13 the regulations with the Secretary of State. And  
14 on April 2nd the regulations would take effect.

15 This schedule assumes that there would  
16 not be any additional modifications that would  
17 require 15-day public review. And so this is the,  
18 sort of the earliest that we would anticipate  
19 having our regulations go into effect.

20 The proposed language that we're talking  
21 about, as a result of the July 8th workshop, are  
22 five areas. Advanced vehicle technology;  
23 sustainability goals; funding restrictions;  
24 Advisory Committee; and investment plan. The  
25 sustainability goals will not be the topic of this

1 workshop.

2 The first one, advanced vehicle  
3 technologies, previously was known as fuel and  
4 technology definitions. The current definitions  
5 do not explicitly include vehicle and component  
6 manufacturing as a eligible funding activity.

7 The statutes do allow for manufacturing  
8 of fuels, alternative renewable fuels in  
9 California, but not in terms of vehicle production  
10 or vehicle component production.

11 We would like to include that, in terms  
12 of reviewing the language, it appears as if that  
13 ability is there, but not explicit. And so our  
14 proposal is to draft language that would allow for  
15 funding of manufacturing of both vehicle and  
16 vehicle components instate.

17 I've put down the proposed language that  
18 was in the submittal on the regulatory language.  
19 I'm not going to read it, but basically it does,  
20 the language states that manufacturing or  
21 production of vehicle technology or components are  
22 allowed or eligible for funding.

23 In this list one of the questions that  
24 we have is are there other vehicle technologies or  
25 vehicle component categories that should be

1 identified for eligibility under manufacturing and  
2 production in California.

3 The second one is sustainability goals.  
4 That's going to be a topic of a separate workshop,  
5 September 9th. The sustainability goals will be  
6 included in program regulations, while the  
7 sustainability characteristics and selection  
8 criteria will be presented in the investment plan  
9 and solicitations.

10 The draft sustainability goals and  
11 characteristics will also be discussed at the  
12 sustainability working group meeting on August the  
13 15th.

14 The third area of funding restrictions  
15 which was formerly called existing laws, rules and  
16 regulations. Regulatory language is needed to  
17 define and clarify the entity obligated to comply.  
18 What we've identified in terms of our draft  
19 language is that it identifies two points.

20 One, that the Energy Commission cannot  
21 provide AB-118 funds to entities that are mandated  
22 to comply with an existing law, rule or  
23 regulation. Or are necessary to achieve  
24 compliance.

25 The second area is that the Energy

1 Commission would have latitude to fund projects  
2 that are upstream or downstream of the entity  
3 obligated to comply. So, as an example, upstream  
4 might be alternative fuel producers. Downstream  
5 might be the alternative fuel vehicle consumers.

6 Again, just for completeness, the  
7 proposed language is reproduced on this slide.

8 One question that we have might would be  
9 should projects funded under the program be  
10 eligible to apply any surplus externality benefits  
11 such as criteria pollutant benefits as credit  
12 under a local, state or federal air emissions  
13 averaging banking or trading program.

14 The fourth area is the Advisory  
15 Committee. In terms of the existing statutes,  
16 there's a need for more specificity on the title  
17 and leadership of the advisory body, and  
18 organizational and participatory aspects of the  
19 advisory body.

20 This area is divided up into, I think,  
21 four subsections. The first one being the  
22 advisory body. The language basically identifies  
23 that the Energy Commission will assign an  
24 appropriate policy committee, in this case the  
25 Transportation Committee, to establish and

1 maintain an advisory body required under statutes.

2 In our proposed language the Commission  
3 would assign an appropriate policy committee to  
4 establish and maintain, as needed, an Advisory  
5 Committee for the alternative and renewable fuel  
6 and vehicle technology program. The Advisory  
7 Committee shall function as the advisory body  
8 required under the Health and Safety Code section.

9 The second area is designation of the  
10 Advisory Committee Presiding Member. Basically  
11 it's to assign the policy committee a presiding  
12 member's role. Proposed language states the  
13 presiding member of the assigned policy committee  
14 shall serve as the presiding member of the  
15 Advisory Committee and shall preside over its  
16 public meetings.

17 The third area is the selection of the  
18 Advisory Committee members. The assigned policy  
19 committee shall solicit applications from  
20 interested groups and agencies identified in  
21 statutes, and other interested groups.

22 The assigned policy committee shall  
23 notify interested persons at least 14 days in  
24 advance of an opportunity to serve as a member.  
25 And, again, the proposed language for completeness

1 purposes.

2 The fourth area is the Advisory  
3 Committee duties. The Advisory Committee shall  
4 meet at least twice a year to assist in the  
5 investment plan development for updates. The  
6 meeting shall be open to the public with ten-day  
7 notice. The presiding member decides on the  
8 necessity and scheduling of the committee  
9 meetings. The proposed language is identified  
10 there.

11 One question that we have is this  
12 question of how often should the Advisory  
13 Committee meet every year. We've identified two  
14 frequencies. One is the Advisory Committee shall  
15 meet at least twice a year to assist in the  
16 development of the investment plan. And then  
17 later on, in terms of the role of the Advisory  
18 Committee, we identified that the committee should  
19 hold one or more public discussions.

20 The reason for the question or the  
21 frequency is if the investment plan requires some  
22 minor updates or revisions, it may only require  
23 one public meeting. Whereas with others it would  
24 require more than one.

25 And so we would like to get input on the

1 frequency of the Advisory Committee meeting each  
2 year in terms of the providing input to the Energy  
3 Commission with respect to the investment plan, or  
4 a development or updates.

5 With respect to the investment plan,  
6 there needs to be clarity -- we believe there  
7 needs to be clarity in terms of what the role of  
8 the investment plan is with respect to the AB-118  
9 funding program.

10 We believe that it needs to determine  
11 the priorities and opportunities for funding to  
12 obtain the program goals; that there be an annual  
13 update subject to Energy Commission approval; that  
14 the policy committee is responsible for preparing  
15 the draft plan or update. The policy committee  
16 will consider public and Advisory Committee input.

17 That the draft publication would be  
18 posted 30 days before an Energy Commission  
19 business meeting approval. In addition, that the  
20 publication of the proposed investment plan, after  
21 receiving input, public input, would be posted 14  
22 days prior to the business meeting.

23 That all funding decisions, as a  
24 consequence of the plan, would be consistent with  
25 the plan. And that the plan needs to identify the



1 types and categories of funded projects. The  
2 proposed language.

3 And that concludes my presentation.

4 ASSOCIATE MEMBER DOUGLAS: Very good. I  
5 neglected to mention at the beginning that if  
6 members of the public would like to speak, please  
7 fill out one of these blue cards. And I have two  
8 cards in front of me right now. I suspect that  
9 there will be more than two people who will want  
10 to speak.

11 MR. MIZUTANI: In the back on the table.

12 ASSOCIATE MEMBER DOUGLAS: The cards are  
13 on the back table. Could we have a volunteer from  
14 the staff to be the person who collects blue  
15 cards.

16 MR. MIZUTANI: This guy in the blue  
17 shirt.

18 ASSOCIATE MEMBER DOUGLAS: And with  
19 that, we are at the public comment period. So, I  
20 would like to begin with the cards I have here.  
21 And the first card I have is from Joe Sparano,  
22 President of WSPA. Please, if you could come  
23 forward.

24 MR. SPARANO: Good morning, --

25 ASSOCIATE MEMBER DOUGLAS: Good morning.

1 MR. SPARANO: -- ladies and gentlemen.

2 For the record my name is Joe Sparano; I'm  
3 President of the Western States Petroleum  
4 Association. As many of you know, WSPA is a  
5 nonprofit trade association that represents 26  
6 companies that explore for, produce, refine,  
7 transport and market petroleum, petroleum  
8 products, natural gas, as well as other  
9 alternative and renewable energy products in  
10 California and five other western states.

11 My testimony today will include WSPA's  
12 concerns about the draft regulatory language for  
13 the alternative and renewable fuel and vehicle  
14 technology program, which I'll refer to in shorter  
15 form as AB-118. WSPA's already provided the  
16 Commission with additional comments in our July  
17 21st letter.

18 As we indicated in our letter to the  
19 Commission we're surprised and concerned. The CEC  
20 Staff appears to be deferring addressing the  
21 question of direct and indirect land use change,  
22 LUC factors, in the full fuel cycle assessment for  
23 the implementation of this program.

24 California needs to take special care to  
25 avoid situations where some fuels are promoted

1 over others in the near term, only to possibly be  
2 found detrimental by subsequent scientific  
3 inquiry.

4 And as I have testified many many times  
5 before, the state should not try to pick winners  
6 and losers. The track record of doing that is  
7 poor. And that process, in our opinion, is  
8 biased.

9 WSPA believes that land use change  
10 factors must be included in the AB-118 program's  
11 full fuel cycle analysis. Failure to consider  
12 land use changes now risks misdirecting resources  
13 to fuel technologies that may result in increased  
14 greenhouse gas emissions, and thereby worsen  
15 global warming.

16 ASSOCIATE MEMBER DOUGLAS: I'm sorry,  
17 Mr. Sparano, let me interrupt here and just ask  
18 you to clarify. What we are doing with regard to  
19 the full fuel cycle analysis is essentially using  
20 the same model the ARB will be using.

21 And so we are, at this point, working  
22 with ARB on developing that model. And they are  
23 in the lead on that.

24 Is that what you're referring to by us  
25 deferring it?

1           MR. SPARANO: I think the ARB model  
2 continues to be GREET and continues to not use all  
3 of the land use change factors that ARB's own  
4 consultant, the University of California at  
5 Berkeley, and others, have indicated is not fully  
6 adequate because it leaves out some of the broader  
7 land use changes. And therefore, may give an  
8 entirely incorrect answer when it comes to the  
9 greenhouse gas contributions of various and  
10 different fuel technologies.

11           ASSOCIATE MEMBER DOUGLAS: I see. So  
12 this is a comment that you'll also be directing to  
13 ARB in the ARB low carbon fuel cycle process?

14           MR. SPARANO: We have, I think,  
15 Commissioner, ad nauseam --

16           ASSOCIATE MEMBER DOUGLAS: Will be have  
17 then --

18           MR. SPARANO: -- and will continue to do  
19 that. I think it's a very important issue and  
20 magnified by the fact that the state's own  
21 consultants have made a very big deal of this. So  
22 we think it's important. None of us wants the  
23 wrong technologies, ones that actually worsen  
24 global warming, to be the ones that we put at the  
25 forefront.

1                   And I think more effort needs to be made  
2           here. It's easy for me to say because I'm not  
3           expending the staff time and effort and resources  
4           that are involved in trying to make sure that we  
5           get all of this data upfront. But we think it's  
6           important to do that. That's the --

7                   ASSOCIATE MEMBER DOUGLAS: Okay, well,  
8           thank you for that. I'll just say, you know, we  
9           are committed to working with ARB and using a  
10          single full fuel cycle with them.

11                  The sustainability goals discussion is  
12          an area where we have been thinking about  
13          investing in further cutting-edge research that  
14          over time can help refine the model. So that's an  
15          issue you may want to pay attention to, as well.

16                  But please continue. I didn't mean to  
17          derail our -- oh, and we have another comment  
18          here.

19                  MR. PANSON: Yeah, I just wanted to  
20          interject quickly -- Andy Panson with ARB -- as  
21          you know there is work going on as part of the low  
22          carbon fuel standard regulatory process to update  
23          the full fuel cycle analysis to kind of reflect  
24          the current state of the science.

25                  And so an analysis of land use impacts

1 is going to be included as part of that, the  
2 regulation.

3 Now, the science is evolving and we're  
4 not going to have a hundred percent of the  
5 answers, but we believe that what we will propose  
6 as part of our regulation is going to represent  
7 the current state of the science.

8 So, efforts are underway to, you know,  
9 address these very issues that you're raising.

10 MR. SPARANO: That's great. And I  
11 appreciate you breaking in, there's nothing holy  
12 about the sequence of comments. And I think it's  
13 a really important issue, in large part, because  
14 you all, state government groups are tasked with a  
15 timeline-dependent responsibility.

16 You've got schedules to meet, and those  
17 schedules tend to force all of us to rush through  
18 this process. And our observation to you, and  
19 expression of concern, is that rushing through  
20 before all the data are available might lead us  
21 all to the wrong conclusion.

22 That's the main point.

23 ASSOCIATE MEMBER DOUGLAS: Thank you.

24 MR. SPARANO: And our members have  
25 offered and continue to offer our resources and

1 expertise to assist you in these analyses, and in  
2 your efforts to further develop the science and  
3 the model.

4 WSPA also has concerns regarding  
5 language in the proposed regulations indicating  
6 that eligibility for AB-118 funds should extend  
7 only to projects that would produce or manufacture  
8 fuels and technologies in California.

9 WSPA believes this is an inappropriate  
10 expansion of legislation of intent that may have  
11 unintended negative consequences. We believe the  
12 funds should be provided for projects that will  
13 develop, demonstrate and deploy the environmental  
14 improvements intended in the program design  
15 wherever the fuels are provided.

16 The focus should be on innovation. Once  
17 a fuel or vehicle technology has been developed  
18 and proven to work, incentives should be removed.  
19 In addition, we don't support funding multiple  
20 similar demonstration projects for the purpose of  
21 proving a certain technology works.

22 Despite a great deal of emphasis in the  
23 draft language on public/private partnerships, as  
24 far as I'm aware, no petroleum companies or  
25 organizations are included on the list of

1 potential candidates for funding.

2 We find this omission disturbing because  
3 it is widely recognized that the petroleum  
4 industry is in the forefront of researching and  
5 developing the types of fuels and technologies  
6 identified in AB-118.

7 Including our industry will allow the  
8 state to increase the likelihood that future low  
9 carbon, cleaner burning transportation fuels will  
10 be available to consumers, and available as soon  
11 as possible.

12 This unfortunate bias against the  
13 petroleum industry is evident in the rationale  
14 section of the AB-32 scoping plan that states  
15 specifically, refiners, importers and marketers of  
16 transportation fuels are ineligible for AB-118  
17 funding for projects intended to help comply with  
18 the state's low carbon fuel standard.

19 That brings up another issue here, as  
20 was shown earlier in Chuck's presentation.  
21 Projects that are mandated, AB-32, low carbon fuel  
22 standard covers an enormous breadth of possible  
23 projects, and projects that have regulatory  
24 requirements from CARB or air districts are all  
25 excluded.



1           That leads me to wonder aloud in front  
2   of this group what might be included. That is a  
3   very wide range of tasks that we're all asked to  
4   accomplish that, under the current language, are  
5   likely to be excluded from 118 funding. So I  
6   think it's important for all of us to reflect on  
7   that and see if there might be a better way.

8           It's important to recognize that meeting  
9   the goals set forth by the LCFS will require  
10  significant technology development and innovation.  
11  This innovative fuel advancement activity is  
12  perfectly matched with the intent of the AB-118  
13  funds. We believe the restrictions that I  
14  mentioned are illogical and provide another  
15  example of the state trying to pick winners and  
16  losers.

17          AB-118 funds are designed to encourage  
18  and assist development of alternative and  
19  renewable fuels of all types. The regulations  
20  state alternative fuels producers and alternative  
21  fuel retailers are eligible to receive AB-118  
22  funds but petroleum refiners, importers and  
23  marketers are not.

24          The reality, as I view it, is that  
25  petroleum refiners and marketers are already

1 alternative fuel producers and alternative fuel  
2 providers. There's a great deal of evidence out  
3 there that supports my observation.

4 And they have the talent and potential  
5 to be the future backbone of the alternative and  
6 renewable fuel delivery system. And I'm sure, as  
7 I say that, there are folks in the room who don't  
8 even like the sound of that. But I believe that  
9 is part of the reality that we're looking forward  
10 at.

11 We have talent and potential, as I  
12 mentioned. I think our members should be eligible  
13 for 118 funding. In fact, some companies may even  
14 want to look for matching-dollar contributions,  
15 and that should be encouraged.

16 We believe it's inappropriate to exclude  
17 petroleum refiners and marketers from the AB-118  
18 funding process.

19 In close, I want to reiterate our  
20 position that drawing arbitrary and illogical  
21 boundaries between petroleum fuel producers and  
22 providers and the nonpetroleum producers and  
23 providers of alternative fuels and renewable fuels  
24 is unfair.

25 Using this policy ignores the reality of

1 today's leading developers of all types of energy.  
2 It also increases the likelihood of failure by  
3 eliminating program funds for one of the primary  
4 existing sources of research, development and  
5 commercialization of alternative and renewable  
6 fuels.

7 Using this selective arbitrary approach  
8 will likely increase the amount of time needed to  
9 develop and commercialize these fuels in  
10 sufficient volumes to compete with, augment, and  
11 possibly eventually replace petroleum-based fuels,  
12 which, as we all know, is part of the separate  
13 California effort on the Integrated Energy Policy  
14 Report, which clearly states that reducing  
15 petroleum dependence is a state goal.

16 So, with those comments I want to thank  
17 you for giving me the opportunity to share WSPA's  
18 views, and I'm available to answer any additional  
19 questions.

20 ASSOCIATE MEMBER DOUGLAS: Well, I  
21 appreciate your sharing WSPA's views, and I just  
22 have one question. You know, you're  
23 characterizing the approach taken in these draft  
24 regulations as arbitrary. But in my mind it's not  
25 so much arbitrary as an effort to apply the

1 direction we're given in statute to not use this  
2 money to fund activities that entities with  
3 compliance obligations under current law are  
4 required to undertake.

5 So, we have read, I think, a fair amount  
6 of flexibility into that by saying that we believe  
7 that certain upstream and downstream activities  
8 that are not, themselves, required to be  
9 undertaken, may be eligible.

10 And so, for example, potentially  
11 providing incentives for use of an alternative  
12 fuel might be eligible, but I, you know, I think  
13 the challenge for you would be to articulate how  
14 some of the activities that you are suggesting  
15 should be covered, meet that requirement.

16 MR. SPARANO: I appreciate that comment,  
17 and it's always fair for reasonable people to have  
18 different views on an issue. I'll repeat what I  
19 said earlier.

20 It occurs to me that given many of the  
21 alternative and renewable fuels and technologies  
22 and end uses we're talking about, all roll into  
23 the umbrella of low carbon fuels, or low carbon  
24 fuel technologies.

25 And since the low carbon fuel standard

1 is mandated by an executive order, it does raise  
2 the question what would be eligible. And we're  
3 concerned about that because we're all tasked and  
4 are all working hard to try and get to the 10  
5 percent.

6 And we all know that simply changing the  
7 amount of ethanol one uses, which everyone seems  
8 to support, is not the way; will not provide  
9 enough to get there.

10 So, it does -- that's the kind of  
11 questions and issues I'm trying to raise here.  
12 And I think --

13 ASSOCIATE MEMBER DOUGLAS: I understand  
14 that. The way that we've approached it is a  
15 fairly mechanical test. Who has the compliance  
16 obligation under these laws, and what are they  
17 required to do.

18 And so we're proposing not funding an  
19 entity that has a compliance obligation for doing  
20 the activity that they are required to do. And I  
21 hear that that's what you're objecting to. I  
22 think that, you know, it's helpful that you bring  
23 those views forward, but it's also, in our  
24 interpretation of the statute, a fairly reasonable  
25 interpretation that leaves a lot of room for us to

1 fund things that we'd like to see.

2 MR. MIZUTANI: Commissioner Douglas.

3 ASSOCIATE MEMBER DOUGLAS: Yes.

4 MR. MIZUTANI: What we're trying to sort  
5 of clarify is section 44271(c) which reads: the  
6 purposes of both of the -- created by this  
7 chapter, eligible projects do not include those  
8 required to be undertaken pursuant to state or  
9 federal law or district rules and regulations."

10 So, that -- it's in the statutes. And  
11 so we're just trying to clarify that, to identify  
12 what is ineligible, and in addition, what then  
13 would be eligible. Try to provide a little more  
14 clarity with respect to the existing statutes.

15 ASSOCIATE MEMBER DOUGLAS: And we're  
16 trying to be clear about our reasoning and our  
17 methodology for how we're interpreting the  
18 statute, and what we think that leaves in and out.  
19 We're -- obviously this is a public workshop,  
20 we're very open to the public's opinions about  
21 whether they think we've drawn the line in the  
22 right place.

23 So, thank you for that.

24 MR. SPARANO: And I appreciate you  
25 giving me time to share those thoughts. Thanks.

1           ASSOCIATE MEMBER DOUGLAS: The next blue  
2       card I have is from Dave Modisette of California  
3       Electric Transportation Coalition. And I have a  
4       very thin stack of blue cards, so -- oh, no, there  
5       are more, I see them coming.

6           MR. MODISETTE: Thank you, Commissioner  
7       Douglas, CEC and ARB Staff. I'm Dave Modisette  
8       with the California Electric Transportation  
9       Coalition. I have comments on two of the areas,  
10      areas 1 and 3.

11           First of all, the so-called advanced  
12      vehicle technology area. When I first saw this  
13      language, and then the question in the agenda that  
14      says what are the additional technologies that  
15      should be added to the list, I went back to the  
16      statute. Because I do think the list of  
17      technologies in the statute is quite comprehensive  
18      and good.

19           And so I started listing those things  
20      which, you know, weren't in this definition, but  
21      which were in the statute. So I started listing  
22      battery electric vehicles, nonroad vehicle and  
23      equipment technologies, idle-management  
24      technologies, measurement metering systems and  
25      software, control systems and system integration

1 software.

2 And what ended up happening in terms of  
3 my thinking is I was thinking, gosh, you know,  
4 what you're trying to define here is eligibility  
5 for projects that produce or manufacture these  
6 technologies in California.

7 I don't know that you need to repeat the  
8 list of all the eligible technologies. And so my  
9 thinking was to keep in the clarification that,  
10 you know, you're trying to make eligible those  
11 projects that are producing or manufacturing these  
12 technologies.

13 But why, you know, why go to the  
14 trouble, I guess, to kind of repeat all of the  
15 technologies that are in the statute. Why not  
16 just reference that subsection in the statute.

17 So, I took a little time here and  
18 talking to Chuck Mizutani to try to draft an  
19 alternative which would read something like this.  
20 It begins kind of like the first sentence in the  
21 staff proposal:

22 "Projects that produce or manufacture in  
23 California the vehicle technologies and fuels  
24 described in Health and Safety Code 44272(c) shall  
25 be eligible for funding."



1           Very simple. I also went back to the  
2       staff report that was produced on July 8th, and I  
3       thought the staff report said, too, there's no  
4       need for clarification of the eligible  
5       technologies. The list in the statute is very  
6       very good.

7           So, that was, you know, kind of my  
8       thinking, was why not just reference the list of  
9       eligible technologies in the statute rather than  
10      trying to repeat it in a kind of a lengthy list in  
11      the second sentence of this language. So that's  
12      the first issue I wanted to raise.

13          The second issue is on the funding  
14      restrictions. And, you know, there have been some  
15      very good discussions that I've had with staff. I  
16      know Commissioner Douglas has been in a couple of  
17      meetings with stakeholders and legislative staff  
18      on this issue, as well.

19          And there seems to be clarification that  
20      at least the two areas that I was kind of most  
21      concerned about are eligible. The first are  
22      vehicle buydown incentives for consumers. Even  
23      though there are some requirements in ARB statutes  
24      and other areas where automakers have to produce  
25      these vehicles.

1                   And I thought there's been very good  
2       clarification in those meetings that buydown  
3       incentives for consumers would be eligible under  
4       118. But when I saw the question on the agenda I  
5       thought, well, gosh, you know, is the staff  
6       interpretation changing here.

7                   So I guess I at least wanted to raise  
8       that issue. It sounds to me like incentives for  
9       consumers would still be eligible. But I did want  
10      to see clarification of that.

11                  The second area is in the interaction  
12      with the low carbon fuel standard. Again, in  
13      conversations with ARB Staff and with the Energy  
14      Commission Staff, it seemed clear that low carbon  
15      fuel standard suppliers that are receiving credits  
16      under the low carbon fuel standard, which entailed  
17      vehicles that were receiving the low carbon fuel,  
18      that those vehicles would then somehow not be  
19      disqualified from receiving credits, again  
20      consumer credits, just because they were also  
21      involved in a credit mechanism under the low  
22      carbon fuel standard.

23                  But, again, when I saw the question in  
24      the agenda it made we wonder, well, gosh, is the  
25      interpretation shifting here.

1           And I was interested today just in the  
2       presentation and in Commissioner Douglas'  
3       comments, that there is a distinction, I think,  
4       which is, at least implied, maybe that needs to be  
5       called out more, between the entities that are  
6       required under the statute and the project.

7           If you go back and look at the language  
8       in the -- the proposed language in the funding  
9       restriction section, it refers to project,  
10      project, project. And that's, I think, you know,  
11      what gives some people a question as to whether or  
12      not it's the project or the entity, as  
13      Commissioner Douglas mentioned.

14          In the staff presentation today I think  
15      it clarifies that it's the entity, and not the  
16      project. And so maybe that kind of clarification  
17      needs to be made in the language, as well.

18          So, let me just then go to the question  
19      that's on the, you know, that's in the agenda,  
20      having made those previous comments.

21          You know, would projects that are  
22      receiving funding be eligible for credit. And,  
23      again, thinking of low carbon fuel standard or  
24      carbon-related credits, it seems to me they would  
25      be eligible for, you know, for credit. That is,

1       you could get both a carbon credit, under the low  
2       carbon fuel standard and you could receive funding  
3       under AB-118.

4               Now, the language here in the agenda  
5       refers to criteria pollutant benefits. And I  
6       guess I'm having difficulty thinking why that also  
7       wouldn't extent to criteria pollutant benefits.  
8       And maybe this goes to, you know, kind of my  
9       vision of the AB-118 program.

10              In my vision of the AB-118 program it's  
11       really a technology development or technology  
12       commercialization program. It's not like the  
13       Moyer program where the Moyer program was really  
14       designed to buy emission reduction, providing  
15       incentives for emission reductions, measurable  
16       emission reductions. And the ARB Staff goes to  
17       great lengths, you know, to make sure that there  
18       are emission reductions from those incentive  
19       funds.

20              But it seems to me the AB-118 program is  
21       a little different. We're not buying reductions  
22       in carbon; we're not buying reductions in criteria  
23       pollutants. The real purpose of AB-118 is to try  
24       to develop these new technologies and fuels. To  
25       bring them to market, to provide some so-called

1       jump-start incentives for them.

2               So, it seems to me you need to be  
3       careful to, you know, to not kind of take away  
4       other types of incentives and have this tradeoff  
5       between AB-118 funding and other types of  
6       incentives.

7               In fact, if you look at what both the  
8       University of California low carbon fuel standard  
9       team said, as well as the ARB Staff in the LCFS  
10      proceeding is they say certain technologies and  
11      fuels, the so-called advanced technologies and  
12      fuels, will probably not be incentive by the low  
13      carbon fuel standard alone. And that additional  
14      incentives are going to be needed on top of low  
15      carbon fuel standard to try to pull those  
16      technologies into the marketplace.

17              And, of course, they specifically  
18      mention electric drive technologies, the hydrogen  
19      fuel cell technologies.

20              And so I guess I do think you need to be  
21      careful in this area and not kind of take away  
22      credits, be they for carbon or even for criteria  
23      pollutant emissions from projects that are funded  
24      under AB-118. I guess I would urge you to see  
25      them as complementary activities rather than

1 exclusionary activities.

2 Thank you very much.

3 ASSOCIATE MEMBER DOUGLAS: Thank you for  
4 your comments. They were very helpful. I might  
5 like, actually Chuck or the staff, to further  
6 clarify the questions that we're asking with the  
7 funding restriction question. I think that might  
8 be helpful.

9 But I think your comments were very  
10 helpful. We are -- one way to put it is that we  
11 are thinking about different ways to deal with the  
12 fact that at least some 118 projects would  
13 potentially generate other kinds of credits that  
14 would have value in the marketplace, whether those  
15 be due to criteria pollutant reduction, potential  
16 carbon reductions, low carbon fuel standard and so  
17 on.

18 One approach would be to say if you get  
19 any amount of 118 funding you cannot claim any of  
20 these credits. Another approach would be to  
21 prorate them so that if 10 percent of the project  
22 is funded by 118, then the state essentially owns  
23 10 percent of any credit that's generated.

24 Another approach might be to, as you  
25 suggest, allow full use of those credits by the

1 project applicant to the extent that they're able  
2 to realize any or all of them. And regardless of  
3 whether they receive 118 funds.

4 So, we are asking for input at this  
5 point about what makes the most policy sense and  
6 what would be of most benefit to the public.

7 Chuck, are there further clarifications  
8 you'd like to make on this question?

9 MR. MIZUTANI: Well, the primary reason  
10 for raising that is if we were to fund, or if  
11 someone were to submit a proposal for funding, we  
12 were to fund it, we don't want to inadvertently  
13 take away any benefits that that project proponent  
14 had envisioned outside of the Energy Commission's  
15 funding program.

16 Right now, in terms of benefits, pretty  
17 much we're looking at the environmental either of  
18 greenhouse gas emissions or criteria pollutant or  
19 toxic emissions as benefits that would be  
20 associated with the types of projects that we  
21 would fund.

22 And so that was our primary reason for  
23 asking the question, is to sort of identify that.  
24 Our money may corrupt the benefits in terms of  
25 applying that to other forms or regulatory forms,

1       such as Air Resources Board or a local AQMD, or  
2       even the federal government program.

3               ASSOCIATE MEMBER DOUGLAS:  And, really,  
4       the policy arguments, at least one could make  
5       policy arguments on both sides of this.  On one  
6       hand, if, through public money, we are creating  
7       public benefits, such as reduced criteria  
8       pollution, reduced carbon emissions, I think  
9       there's a reasonably strong argument that could be  
10      made that those benefits belong to the State of  
11      California.  And potentially even any surplus  
12      benefits would also belong to the State of  
13      California.

14             On the other hand, we might be able to  
15      leverage additional private money and do, in the  
16      end, bigger and better projects if we don't take  
17      that stand, that the full additional or marginal  
18      benefits of any project belong entirely to the  
19      state.

20             And so this is, again, an area where  
21      we're asking for public input.

22             MR. MODISETTE:  And -- sure.

23             MR. PANSON:  I'd also like to interject  
24      something here.  I think, Dave, you are correct to  
25      point out that there is a different focus between



1       this program and the Moyer program. But there are  
2       still similarities. And there is still a  
3       statutory direction or, you know, that we can't  
4       include projects that are required by laws or  
5       regulations.

6               And, you know, when you're talking about  
7       generating credits, you know, a credit is  
8       something that if you generate a credit and sell  
9       it, you're offsetting some other obligation.  
10       Meaning something that's sold as a credit isn't  
11       really a surplus reduction.

12              You know, it's using those reductions to  
13       comply with a law or regulation, you know, which  
14       is something that is not allowed under AB-118.

15              So I don't think you can just say, you  
16       know, we shouldn't pay attention to credits or  
17       have such a broad or liberal interpretation. I  
18       think there is still clear statutory direction  
19       that these are to fund projects that aren't  
20       required, or that are surplus.

21              And so remember that when you sell  
22       credits that what you're doing is you're using  
23       that as a compliance mechanism.

24              So I think it might be difficult to say  
25       that that's not something that's required.

1           MR. MODISETTE: Yeah, and I certainly  
2 agree with, you know, with both the letter and, I  
3 think, intent of the statute. But you do get into  
4 this gray area, both, I think, in terms of  
5 incentives for consumers and incentives again for  
6 different entities under the low carbon fuel  
7 standard versus, again, incentives for a consumer.

8           So, I think we're just kind of looking  
9 for clarification, maybe even just verbal  
10 clarification. Doesn't have to be written  
11 clarification in --

12          MR. PANSON: And I think we are pretty -  
13 - trying to be pretty clear on the consumer  
14 incentives. And, you know, none of these  
15 regulations are forcing consumers to do anything.

16          And so if we can incent consumer choice  
17 that's surplus.

18          But some of your comments, you know,  
19 could have been construed as saying we really  
20 shouldn't pay attention to credits, or everything  
21 should be up for, you know, used as credits. And  
22 I think we want to try and be clear that, you  
23 know, that's, at least from ARB's perspective, we  
24 wouldn't agree with that.

25          MR. MODISETTE: One of the, you know,

1 ideas that might be helpful -- this was actually  
2 suggested by legislative staff a couple months  
3 ago, would be to have kind of an informal forum  
4 with ARB Staff and the Energy Commission Staff and  
5 just run through these examples.

6 The problem is that there's so many  
7 different examples. But, you know, once you kind  
8 of get down into the nitty-gritty of some of these  
9 examples, it's difficult to figure out, you know,  
10 just where the language is trying to draw the  
11 line.

12 So that kind of a forum might be helpful  
13 to all stakeholders.

14 MR. PANSON: Yeah, and we've had this, I  
15 mean we've had this discussion with multiple  
16 people. And it's unfortunately not as easy as  
17 just saying, you know, here's a list of all the  
18 potential projects, and here's all the regulations  
19 and everything, you know, we can answer every  
20 potential scenario right up front.

21 It isn't that easy. I think you  
22 probably have some appreciation for that, because  
23 of your years of following it, being involved in  
24 the Moyer program. And I think, you know, some of  
25 this, the nuance and subtlety and complexity, you

1 know, maybe is, you know, some people are being  
2 hit with that for the first time.

3 But I think the ongoing dialogue and  
4 kind of having people come with questions and  
5 having a back-and-forth is hopefully helpful in  
6 helping people figure out where the lines are.

7 MR. MODISETTE: Thank you very much.

8 ASSOCIATE MEMBER DOUGLAS: Thank you.

9 MR. SMITH: Excuse me, Commissioner.

10 Dave, may I ask one question. Could you go back  
11 to the early part of your comment, you read a  
12 statement or proposed language that you said you  
13 had submitted to Chuck. Could you read that  
14 again, please.

15 MR. MODISETTE: Yeah, and I guess the  
16 key thing is that it references the list of  
17 eligible projects in the statute which is Health  
18 and Safety Code 44272, subsection (c).

19 So it very simply says: Projects that  
20 produce or manufacture in California the vehicle  
21 technologies and fuels described in Health and  
22 Safety Code section 44272(c) shall be eligible for  
23 funding."

24 MS. BROWN: Dave, I wanted to ask you  
25 about that, too. This is Susan Brown. It sounds

1       like what you don't want is to be overly  
2       restricted, but rather you want to not list  
3       projects with the fear of leaving things out that  
4       might otherwise be eligible? Is that where you're  
5       going?

6               MR. MODISETTE: Yeah, yeah, I mean I saw  
7       the list of eligible technologies, and it includes  
8       plug-in hybrid technology, for example, but it  
9       didn't include the battery electric vehicles, it  
10      didn't include the nonroad vehicles, it didn't  
11      include idle-management technologies.

12             So that's kind of where I started, was  
13      to try to add technologies to the list. But then  
14      I kind of said, well, gosh, you know, this is  
15      getting kind of silly. We're just going to repeat  
16      what's already in the statute.

17             MS. BROWN: Right. And I guess I wanted  
18      to ask staff or legal counsel on that point. I  
19      mean what also was left out was advanced  
20      batteries. And I'm assuming that those would  
21      otherwise be eligible under the statute?

22             MR. MIZUTANI: Yes.

23             ASSOCIATE MEMBER DOUGLAS: Thank you  
24      very much.

25             MR. MODISETTE: Thank you.

1                   ASSOCIATE MEMBER DOUGLAS: Our next  
2 speaker is James Stewart from the Bioenergy  
3 Producers Association. There's no need to hurry  
4 to the podium.

5                   MR. STEWART: I tripped over my  
6 briefcase. Commissioner Douglas and Staff, my  
7 name is Jim Stewart and I have the privilege of  
8 serving as the Chairman of the Bioenergy Producers  
9 Association, an alliance of companies dedicated to  
10 the environmentally sensitive production of  
11 advanced biofuels, chemicals and greenpower from  
12 sustainable carbon-based feedstocks.

13                   Among others, our membership includes  
14 electric utilities, waste haulers, biobased  
15 technology companies, engineering and consulting  
16 firms from all over the State of California.

17                   We strongly support the goals that the  
18 Energy Commission has established for its  
19 alternative fuel and vehicle technology program.  
20 Most particularly, the fact that this is the first  
21 broadly based program in the state's history that  
22 includes waste-to-energy as an essential element  
23 in low-cost domestic advanced biofuels production.  
24 A goal consistent with the findings and  
25 recommendations of the Governor's bioenergy actio

1 plan.

2 The CEC's briefing papers on the program  
3 state: the focus of the program is to deploy  
4 alternative and renewable fuels in the marketplace  
5 without adopting any one preferred fuel or  
6 technology."

7 The CEC, in our opinion, is to be  
8 commended for this because all advanced forms of  
9 liquid and electric energy production will be  
10 required if the state is to achieve energy  
11 independence while complying with new standards  
12 for greenhouse gas emissions and weaning itself  
13 from independence on fossil fuels.

14 Our Association also strongly supports  
15 the sustainability goals presented in the CEC's  
16 briefing papers, and in particular the statement  
17 that, quote, "the Energy Commission can encourage  
18 alternative fuel and transportation projects to  
19 minimize environmental impacts and natural  
20 resource use by recognizing projects that maximize  
21 the use of waste stream materials as their  
22 feedstock."

23 Forty million tons of municipal waste  
24 were placed in California's landfills in 1989, the  
25 year AB-939 was passed. After a dedicated 20-year

1 statewide effort, California has achieved a  
2 recycling rate of 54 percent; 14 percent of which,  
3 by the way, is comprised of green wastes that are  
4 being placed in landfills for use as alternative  
5 daily cover.

6 And yet this year the state will dispose  
7 of 42 million tons of post-recycled municipal  
8 waste. We haven't made any progress.

9 In Los Angeles County we create about  
10 220,000 tons of trash per week, enough to fill  
11 Dodger Stadium every nine days. And as  
12 California's population is expected to grow by  
13 some 10 million people over the next 25 years, the  
14 trend is destined to continue.

15 Conversion technologies, however,  
16 theoretically could produce some 2.7 billion  
17 gallons of advanced biofuels and 2500 megawatts of  
18 power just from those 42 million tons of post-  
19 recycled municipal waste. That is almost three  
20 times the amount of ethanol that was imported to  
21 the state last year.

22 The AB-118 also requires the Energy  
23 Commission to identify barriers to implementation.  
24 In order to become meaningful contributors to the  
25 production of advanced biofuels in California,



1 bioenergy producers need a level playing field,  
2 and the cooperation of all branches of government.

3 It is pure head-in-the-sand politics for  
4 the Legislature to believe that the volume of  
5 material that is being placed in California's  
6 landfills can be significantly reduced, let alone  
7 achieve the holy grail of zero waste, through  
8 source reduction traditional means of recycling  
9 and composting alone.

10 A key factor in the successful  
11 implementation of AB-118, therefore, is the  
12 creation of an enabling regulatory structure that  
13 treats and permits all biofuels production plants  
14 as manufacturing or industrial facilities  
15 regardless of their feedstocks.

16 In the allocation of funding from the  
17 AB-118 program the CEC should be able to treat all  
18 advanced biofuels technologies on an equal  
19 footing. And the only criteria that should be  
20 applied are the CEC's sustainability standards.

21 We also support the CEC's focus on  
22 developing the marketing infrastructure to support  
23 E-85 and ethanol blends above E-10. We can't  
24 produce the ethanol required for the statewide  
25 introduction of E-85 with corn and switchgrass

1 alone.

2 The key to instate production of higher  
3 biofuel blends lies in the utilization of  
4 California's largest biomass resource supplies,  
5 namely agricultural, forestry and urban wastes.  
6 And we need the retail outlets for E-85 to justify  
7 the capital investment necessary to produce that  
8 volume of ethanol.

9 Our industry is prepared to invest  
10 private dollars now to demonstrate the commercial  
11 viability of clean technologies that can turn the  
12 full spectrum of California's carbonaceous waste  
13 materials into major sources of green power and  
14 liquid energy in a manner that advances  
15 sustainability goals. It is happening elsewhere  
16 across the country.

17 The Bioenergy Producers Association  
18 looks forward to participating in the  
19 sustainability working group and supporting the  
20 Energy Commission in the crafting of the program.

21 We thank you.

22 ASSOCIATE MEMBER DOUGLAS: Thank you.  
23 Scott Bergquist of Propulsion Brothers.

24 MR. BERGQUIST: I guess I'll wake  
25 everyone up by a few visuals here. This is all

1       being presented under the idea of innovative --  
2       innovation.

3               What I have here is a model of a narrow  
4       track rail system. So what this track does, it  
5       has to be made out of steel and have keeper bars  
6       inside the rails that would prevent the vehicle  
7       from going off the track. And it would be held in  
8       the track by a bar like this that could not go up  
9       because of the T section underneath.

10              And then it would have a wheel like  
11       this. And the wheel would be a pair of wheels  
12       that would straddle this blue bar. And this would  
13       be in a rail system with single occupant cars with  
14       a very narrow track.

15              Now, I developed this for third-world  
16       applications when I was trying to develop the  
17       least costly footprint per mile. And a very  
18       narrow car, six feet by six feet, would be the  
19       type of car that would go on this; pulled by a  
20       single engine.

21              And it actually would be a good start  
22       for a high-speed rail system, because one of the  
23       biggest problems with high-speed rail is you have  
24       to have a lot of weight to keep the train on the  
25       track. And secondly, the width of the track

1 causes what's called hunting in the engine -- in  
2 the train set that moves back and forth as we've  
3 all felt on all the railcars.

4 And a narrow track like this would  
5 enable much higher speeds than a wide track which  
6 has very high weight system.

7 So all I'm advocating here in just a  
8 very few minutes is that the program also look at  
9 nonroad expenditures, non-highway-type of  
10 innovation. And look at something like this that  
11 has a very narrow footprint, and also very light  
12 weight so that as far as land use goes, and  
13 building such a track, it would use a lot less  
14 energy just in the initial construction, as well  
15 as the operation would be a fraction of the  
16 typical lightrail system.

17 The year is 2008. If it was 1908 and  
18 the Wright Brothers had just flown their plane and  
19 I was up here talking about aircraft carriers and  
20 so on, it would be really difficult to explain it  
21 to people.

22 But what I'm advocating is there be  
23 money set aside for nonhighway-type of innovations  
24 and specifically different types of rail. People,  
25 whenever you talk about mass transit and rail,

1       they're thinking about lightrail versus heavyrail,  
2       that type of thing, the Capitol Corridor.

3               But there are other ideas out there that  
4       need to be demo'd, and maybe they don't come to  
5       fruition in one year or two years, but five years  
6       down the line something can happen.

7               Thank you very much.

8               ASSOCIATE MEMBER DOUGLAS: Thank you  
9       very much. Our next speaker will be John Shears  
10      of CEERT.

11              MR. SHEARS: Good morning, Commissioner  
12      Douglas, Energy Commission and ARB Staff. Just  
13      sort of -- John Shears of the Center for Energy  
14      Efficiency and Renewable Technologies.

15              I just wanted to briefly comment on the  
16      draft regs, and I would like to see and know some  
17      of my colleagues would like to see, you know,  
18      we've been in discussions with the Commission  
19      about making sure that we integrate, see how the  
20      investment plans and the regs are integrated as  
21      they move forward.

22              So I just want to highlight that also  
23      for people in attendance in the room here, that  
24      some of the issues that are being discussed and  
25      developed for the regulations will be covered,

1        hopefully, and balanced within the investment  
2        plan. So, sort of on a high level I just wanted  
3        to make that observation.

4                And then secondarily in the draft  
5        regulatory language for the first item and the  
6        third item on the first page, which, you know,  
7        don't have placeholder numbers yet, so advanced  
8        vehicle technology versus funding restrictions.

9                Something that I want to highlight is  
10       that there will be this tension in resolving what  
11       we're going to define as advanced vehicle  
12       technologies, you know, as we reflect on it, what  
13       technologies are going to qualify as complying  
14       technologies, or technologies that are mature  
15       enough to be part of compliance.

16               So, I think, you know, staff and, you  
17       know, people working with any of the stakeholder  
18       working groups maybe there may be -- we may need  
19       to sort of discuss that and figure out how to  
20       articulate that better to try and sort of be as  
21       clear as we can be, recognizing that there'll be  
22       some grayness in there, in the transitioning from  
23       what's a near-market-ready technology to a  
24       technology that's going to be still in  
25       development.

1                   And then I just wanted to respond  
2       respectfully to Mr. Sparano's remarks earlier. I  
3       don't see the guidelines as set out in AB-118 as  
4       being arbitrary, since we're living in an AB-32  
5       low carbon fuel standard world.

6                   In fact, you know, we're viewing these  
7       regulations in the context of finding climate  
8       change, petroleum is, you know, the latest  
9       greenhouse gas inventory, represents roughly 96  
10      percent of our transportation energy, which is 38  
11      percent of our greenhouse gas emissions.

12                  So, from my perspective, this is not  
13      arbitrary to exclude WSPA. Nor do I think it's  
14      unfair to, you know, exclude WSPA from getting  
15      funding, given that if people have been following  
16      the business press, again, the quarterly reports  
17      are out. And for the eighth or tenth straight  
18      quarter we're adding record yet again, new record-  
19      setting profits coming out of the oil industry.

20                  Meanwhile, a lot of those profits are  
21      going back into share buybacks. And, you know, if  
22      you look at your own analyses that have been done  
23      by some of your staff and analyses done elsewhere,  
24      compared to the investment sums that could be  
25      placed into research in alternative fuels by the

1       petroleum industry, it's really not a significant  
2       compared to the amount of money they're putting  
3       int share buybacks, even in relation to the money  
4       that they're putting into new exploration and  
5       development for, you know, conventional resources.

6                So, I'd like to respectfully disagree  
7       with Mr. Sparano because I don't think the oil  
8       industry is hurting for monies.

9                You know, this is an important program,  
10      but, you know, if the \$75 million that are being  
11      currently discussed for the budget for this year  
12      are approved, these are small amounts of money for  
13      this program when we're looking to develop, you  
14      know, Linux-type innovating companies, if I  
15      analogize WSPA to Microsoft.

16               So I think WSPA has plenty of revenues  
17      to invest in alternative fuel development  
18      technologies, and we should preserve this funding  
19      for nonpetroleum-based companies.

20               ASSOCIATE MEMBER DOUGLAS: Thank you,  
21      John. Kurt Schuparra with California Strategies.

22               MR. SCHUPARRA: Thank you, Commissioner  
23      Douglas and others. I have no statement to make.  
24      I don't have a rejoinder to anything that's been  
25      said, so I'll probably be the least, potentially



1 the least controversial speaker --

2 ASSOCIATE MEMBER DOUGLAS: So I won't be  
3 interrupting you with questions?

4 MR. SCHUPARRA: Oh, okay, all right.  
5 Actually I just have a couple of procedural  
6 questions. So the working group on sustainability  
7 is meeting Friday. According to the timeline here  
8 I don't see any future meetings after that.

9 And then there is the public workshop to  
10 review draft sustainability regulations on the  
11 9th. And I don't see any interactive meeting  
12 after that.

13 I guess my -- I have two questions.  
14 One, are there no public hearings after September  
15 9th? Because it seems like there's a lot of time  
16 that lapses between September 9th and January  
17 14th.

18 And also is the Advisory Committee a  
19 post-regulatory entity? Or is it going to be  
20 established before the regulations are submitted  
21 to OAL for purposes of input? I guess I just  
22 didn't --

23 ASSOCIATE MEMBER DOUGLAS: The Advisory  
24 Committee has been formed already for the purposes  
25 of going forward this year.

1                   MR. SCHUPARRA: The Advisory Committee  
2       has been --

3                   ASSOCIATE MEMBER DOUGLAS: Yes, yes.  
4       And the Advisory Committee has had two meetings.  
5       The regulations that we're putting forward would  
6       help clarify how we run the committee in the  
7       future.

8                   But the statute clearly not only  
9       authorizes, but directed us to set up an Advisory  
10      Committee. We just wanted to make the process  
11      more formal and regulation.

12                  MR. SCHUPARRA: Okay, so this is just an  
13      after-the-fact --

14                  ASSOCIATE MEMBER DOUGLAS: Yes.

15                  MR. SCHUPARRA: Okay.

16                  ASSOCIATE MEMBER DOUGLAS: After the  
17      first convening of the committee.

18                  MR. SCHUPARRA: Okay. Is that -- the  
19      members of the Advisory Committee, is that posted  
20      on the --

21                  ASSOCIATE MEMBER DOUGLAS: I'm going to  
22      ask staff to help you with all of your procedural  
23      questions.

24                  MR. SCHUPARRA: Okay, all right. I  
25      didn't mean to take up valuable time with

1 procedural things, but I guess if I --

2 ASSOCIATE MEMBER DOUGLAS: Well, I think  
3 if you have questions, others do. And we  
4 absolutely want the process to be clear.

5 MS. MACIAS: Yes, our list of Advisory  
6 Committee members is posted online. And if you  
7 leave me your business card I can send you the  
8 link to the document. But it's also available if  
9 you go under the transportation navigation on our  
10 website, it'll have the AB-118 listed, the first  
11 two options. So you can get it either way.

12 As far as the public workshops, you are  
13 correct. September 9th is the last scheduled  
14 public workshop. But if we feel a need I guess we  
15 could always consider adding another.

16 And then at the business meeting on  
17 January 14th to approve or make changes to the  
18 regulatory text will also be a public workshop.

19 But the comment period we will be  
20 posting the comments online so that it'll be a  
21 transparent process. And then we'll post  
22 responses and things like that, as well.

23 MR. MIZUTANI: I'd like to add one  
24 thing. Chuck Mizutani. The timeline that I  
25 presented was just for the rulemaking. In terms

1 of AB-118 -- in terms of many of the programs,  
2 there are two current tracks that are occurring in  
3 parallel as we proceed to go into the final phase  
4 of developing solicitations and awarding funds.

5 So, the first -- the two tracks are the  
6 development of an investment plan in which the  
7 Advisory Committee has been established to provide  
8 input to the Transportation Committee in  
9 developing the investment plan.

10 The other thing that's going along  
11 that's required by statute is the rulemaking  
12 process. And so the schedule that you see in my  
13 presentation only identifies those meetings or  
14 workshops for the rulemaking phase.

15 So the investment plan schedule is not  
16 part of that.

17 ASSOCIATE MEMBER DOUGLAS: And I'll just  
18 add, as a final point, all of the Advisory  
19 Committee meetings are public and noticed. And  
20 the sustainability working group will continue to  
21 meet, it's my understanding, beyond this Friday.

22 So, your question of whether we need  
23 more discussion of some of these other issues is  
24 one that I think we will regroup after this  
25 workshop and draw some conclusions on. But in

1 terms of sustainability and in terms of the  
2 investment plan, there are definitely going to be  
3 further meetings.

4 MR. SCHUPARRA: Good, thank you.

5 ASSOCIATE MEMBER DOUGLAS: The next card  
6 I have is Bonnie Holmes-gen with American Lung  
7 Association.

8 MS. HOLMES-GEN: Good morning. Bonnie  
9 Holmes-Gen, American Lung Association. I just  
10 want to make a couple of comments. And I  
11 appreciate you having this workshop.

12 The first one is I just wanted to echo  
13 the comments of John Shears about just making sure  
14 that this draft regulatory language clearly ties  
15 in the decisions on the funding allocations into  
16 the investment plan.

17 It just seemed to me that you would need  
18 some language also in the section on advanced  
19 vehicle technology that would reference that, that  
20 would clearly state that in addition to being  
21 these types of technologies, that of course, on an  
22 annual basis the specific mix of projects that  
23 would be considered would be changing depending on  
24 the priorities in the investment plan, or some  
25 language to clarify that, you know, while every

1 project may -- I mean not every project that's  
2 eligible is going to be seriously considered  
3 because of those specific priorities in the  
4 investment plan.

5 ASSOCIATE MEMBER DOUGLAS: Well, that's  
6 absolutely right. Now, we do have proposed  
7 language on the investment plan, itself, that  
8 would --

9 MS. HOLMES-GEN: I do see that and --

10 ASSOCIATE MEMBER DOUGLAS: Okay.

11 MS. HOLMES-GEN: -- I guess I just --

12 ASSOCIATE MEMBER DOUGLAS: You're just  
13 suggesting that because we're throwing in the  
14 specific eligibility category that we re-tie it  
15 to --

16 MS. HOLMES-GEN: I think that maybe it  
17 would be helpful --

18 ASSOCIATE MEMBER DOUGLAS: -- the  
19 investment plan?

20 MS. HOLMES-GEN: -- to re-tie it in.  
21 And I am slightly concerned with one piece of the  
22 investment plan language. Where it says the  
23 investment plan shall not identify specific  
24 projects or technologies for funding, but shall  
25 serve to give public notice as to the types of

1 projects that would be eligible.

2 And I understand, of course, the  
3 investment plan is not going to get down into the  
4 weeds in terms of specificity of this project  
5 should be considered this year and this project  
6 should be considered next year.

7 But it does seem to me that the  
8 investment plan will identify potentially certain  
9 baskets of technologies that would be considered  
10 priority for funding in a certain year.

11 So, I'm worried that by putting "or  
12 technologies" that it's maybe giving the wrong  
13 signal here. So, --

14 ASSOCIATE MEMBER DOUGLAS: So your  
15 concern is the "or technologies"?

16 MS. HOLMES-GEN: Yeah, yeah. Because it  
17 seems like the investment plan should certainly  
18 identify specific technologies for funding,  
19 baskets of technologies, categories of  
20 technologies.

21 So maybe it's just how I'm reading it,  
22 but I just want to make sure that we're not  
23 providing direction that would hamper the ability  
24 of the Advisory Committee to give very clear  
25 direction on priorities.

1                   Do you read that -- are you seeing that  
2                   differently, or --

3                   ASSOCIATE MEMBER DOUGLAS: I'm seeing  
4                   the phrase, determines -- the investment plan  
5                   determines priorities and opportunities for  
6                   funding to attain the program goals.

7                   MS. HOLMES-GEN: Right, but I'm just  
8                   concerned where it says shall not identify  
9                   specific technologies. So I just wanted to  
10                  comment on that.

11                  ASSOCIATE MEMBER DOUGLAS: Okay, thank  
12                  you.

13                  MS. HOLMES-GEN: And see. And, again,  
14                  I'm going to use that point just to again clarify  
15                  that, you know, I think that the investment plan,  
16                  as we've discussed in the Advisory Committee, you  
17                  know, definitely needs to provide a very clear  
18                  focus on priority technologies that should be  
19                  funded. And that those technologies should, of  
20                  course, be consistent with all of the criteria  
21                  that are in AB-118.

22                  I guess that was my next question.  
23                  There's a lot of very carefully drafted, very  
24                  thoughtfully drafted criteria in AB-118,  
25                  especially in section 44272(b). And I appreciate



1       that you have the legislation here.

2               And I guess I want to understand how is  
3       that criteria then carried through into the  
4       regulations and the investment plan? Because  
5       there's very important criteria about the  
6       project's ability to reduce criteria air  
7       pollutants and air toxics, avoid multimedia  
8       impacts, provide non-state-matching funds, reduce  
9       greenhouse gas emissions by 10 percent, use  
10      alternative fuel blends at least 20 percent.

11             So, I'm just trying to figure out where  
12      does all of that criteria get reflected. Because  
13      I don't see it in the draft -- in the regulations.

14             ASSOCIATE MEMBER DOUGLAS: You don't see  
15      it in the draft regulations.

16             MS. HOLMES-GEN: So I'd like to  
17      understand --

18             ASSOCIATE MEMBER DOUGLAS: Right, and I  
19      think, Chuck or Mike, correct me if I'm wrong.  
20      Our thinking is that that would be fully  
21      incorporated in the investment plan. Is that  
22      right?

23             MR. MIZUTANI: Yes.

24             ASSOCIATE MEMBER DOUGLAS: Okay.

25             MR. BABULA: Again, just comment on

1       that. Over here, Jared Babula, Staff Counsel.

2               And this also addresses, I think, the  
3       second commenter. Anything that's in the statute  
4       is going to be effective. It's not that if you  
5       don't see it in the regulation it doesn't mean,  
6       oh, we didn't think about it, or it's not going to  
7       count.

8               We can't ignore what the statute says.  
9       So, the regulations are just trying to clarify.  
10      But the suggestion to take out the individual  
11      things that we had listed, that actually would be  
12      probably appropriate, because it is already in the  
13      statute.

14              So I don't want you to think that we're  
15      not going to deal with something that's in the  
16      statute.

17              MS. HOLMES-GEN: Well, I suspected that  
18      to be the case, but I just -- I wanted to raise  
19      that. And I guess specifically because, you know,  
20      I am concerned, because, of course, I'm with the  
21      Lung Association, that there is very important  
22      signals that are given about the importance of  
23      projects meeting air quality criteria and  
24      advancing our air quality goals.

25              So, I think the regulatory language

1 would benefit from some language along those lines  
2 also to clarify that we're meeting multiple goals  
3 here, and that our state air pollution goals and  
4 public health goals are a very important focus of  
5 this program, also.

6 And then I also -- I wanted to comment  
7 on the funding restrictions. And from the  
8 perspective of the Lung Association, you know, we  
9 think this is a very critical part of the program.  
10 And believe that the Air Resources Board, of  
11 course, needs to very carefully weigh in on this  
12 piece, but also because we need to make sure that  
13 anything that's what we're doing in this program  
14 is not going to hamper progress toward our state  
15 implementation plan and our state and federal  
16 goals.

17 But from our perspective at this point  
18 we don't believe that projects that are receiving  
19 funding, public funding, should also receive any  
20 marketable credits that they can then, you know,  
21 sell and use for their own benefit.

22 We believe that the credit, the air  
23 pollution credits should go to the public. Any  
24 additional benefits, any additional reductions  
25 should basically serve to improve, you know, the

1 state's efforts to achieve clean air, and not be  
2 sold to somebody else.

3 MS. BROWN: May I ask a clarifying  
4 question on that, Bonnie. Would you object then  
5 to allowing some form of credit for the let's say  
6 private-funded aspect of a project, were we to  
7 cost-share one with private industry?

8 The example was given that maybe the  
9 state would only provide 10 percent or 20 percent,  
10 and the balance would be paid by others.

11 MS. HOLMES-GEN: I think we have to get  
12 very very careful. At this point I don't think  
13 that we would support that at this point unless it  
14 was a very small percentage.

15 I think we have to be very very careful  
16 about that. I think we need to have dialogue with  
17 the Air Resources Board. I haven't heard -- I  
18 heard a little bit from the Air Resources Board,  
19 but I feel like they need to really weigh in on  
20 this, and how this is going to -- I want to know  
21 how the policy on this will affect our state's  
22 ability to keep fast progress toward our state  
23 goals, state air quality and federal air quality  
24 goals.

25 And I'm concerned that if we start

1 giving away credits that we're going to be moving  
2 backward.

3 MS. BROWN: Maybe I'd like to get  
4 clarification, Andy, from you on the Air Board's  
5 position in the Moyer program, how does the credit  
6 system work?

7 MR. PANSON: Yeah, in the Moyer program  
8 the full benefit of a project goes to the clean  
9 air, goes to the state, even the matched component  
10 that's put in by a private entity.

11 There is a slightly different dynamic at  
12 times because we don't really have this scenario  
13 that you talked about where maybe 90 percent of  
14 the funding is nonstate. In general for Moyer  
15 it's 10 to 30 percent. But in Moyer it's very  
16 clear, all of the emission benefit from a project  
17 goes to clean air.

18 One thing I also wanted to point out,  
19 you know, in the statute in that list of 11  
20 criteria, eligibility criteria, that nonstate  
21 match is one of the things that's listed. And I  
22 think, you know, we should probably be clear on  
23 what we mean by nonstate match.h

24 Because I think if someone is getting  
25 credit for something, that really wouldn't be

1 match because, you know, they're essentially  
2 taking that, and it's becoming a marketable  
3 credit.

4 So, in our view, and I think there's  
5 some -- we'll have to talk through, but when you  
6 talk about nonstate match, those are reductions  
7 that are going to be retired for a clean air  
8 benefit. And that's what, you know, that's where  
9 the leveraging comes in or where the match comes  
10 in.

11 MS. BROWN: And I realize this may not  
12 be a fair question, but are you looking at the  
13 same policy for the air quality improvement  
14 program, then, that would be funded under AB-118?

15 MR. PANSON: Yeah. You know, I think  
16 we're going to be -- we haven't gone to the point  
17 of crafting any specific --

18 MS. BROWN: I understand.

19 MR. PANSON: -- regulatory language, so  
20 I'll just put that caveat out, you know,  
21 initially. But I think we're going to look to be  
22 consistent with what we do for Moyer, certainly,  
23 you know, principle-wise.

24 I think there is a slightly different  
25 focus between Moyer and this program. But, you

1 know, we believe that where the state is -- well,  
2 where we're funding something the full benefits,  
3 you know, need to go to clean air.

4 MS. BROWN: But I guess the counter  
5 issue is that you don't want to disincentivize  
6 private industry to want to invest in alternative  
7 fuels, either. So you have to be very careful  
8 about how you think about these issues.

9 ASSOCIATE MEMBER DOUGLAS: I think it's  
10 a very small subset of projects where this could  
11 even be an issue given the source of things that  
12 AB-118 is supposed to fund. And it's really only  
13 in maybe large-scale, or say a regional deployment  
14 of something where there are substantial nonstate  
15 partners putting in the bulk of the money, the  
16 very large portion of the money, where this policy  
17 -- where this would arise as a policy issue.

18 But nevertheless, we wanted to put it  
19 forward to the public and get public responses on  
20 this question.

21 MS. HOLMES-GEN: Well, I'm really  
22 concerned. And I think that the Commission should  
23 strive to be consistent with the policy that the  
24 Air Board has been following successfully for  
25 years on this.

1                   So I wanted to make sure I'm heard on  
2     that.

3                   Thank you. And I guess I just wanted to  
4     add one more comment. I think you're recommending  
5     that the Advisory Committee convene every year, or  
6     if you're not, I think that that would be  
7     helpful --

8                   ASSOCIATE MEMBER DOUGLAS: We are,  
9     two --

10                  MS. HOLMES-GEN: -- to make that clear.

11                  ASSOCIATE MEMBER DOUGLAS: -- two  
12     meetings at least per year.

13                  MS. HOLMES-GEN: Okay. So that  
14     basically the Advisory Committee shall meet every  
15     year, because the investment plan has to be  
16     updated. Okay.

17                  Thank you for that time to comment.

18                  ASSOCIATE MEMBER DOUGLAS: All right,  
19     the last blue card I have, if anyone else has  
20     failed to give us their blue cards, now is your  
21     time -- is Danielle Fugere with Friends of the  
22     Earth.

23                  MS. FUGERE: I thank you for the  
24     opportunity to comment. A lot of my comments have  
25     been raised already, which include why the



1       advanced vehicle technology -- so I think we've  
2       addressed that.

3               One question I had was, Chuck, you said  
4       that the definitions, this was the only one that  
5       was not defined. And I was wondering defined  
6       where. Just so that we know the scope of what you  
7       were looking at in terms of definitions.

8               MR. MIZUTANI: It was formerly known as  
9       fuel and technology definitions. Is that what  
10      you're referring to?

11              MS. FUGERE: Yeah, it says right there,  
12      current definitions do not include vehicle or  
13      component manufacturing. And I was wondering what  
14      current definitions you were referring to.

15              You can do that offline if that's my  
16      question alone.

17              MR. MIZUTANI: I can just tell you that  
18      there is a listing of fuels and technologies that  
19      have been identified. I'll have to find that  
20      section. But that's what we're referring to.

21              MS. FUGERE: Okay.

22              MR. SMITH: Danielle, also very quickly,  
23      the inconsistency in the statute that we're just  
24      trying to address here is that if you look at the  
25      11 items that are defined as eligible projects in

1 AB-118, there's a peppering of language relating  
2 to vehicle technology.

3 Also there's language in there relating  
4 to alternative fuels. It's clear that we can  
5 provide support to advanced technology, say the  
6 demonstration of an advanced technology that might  
7 significantly increase the fuel economy of a  
8 family of conventional engines, let's say.

9 Clearly we can provide funding to  
10 demonstrate a new alternative or renewable fuels.

11 Where there's inconsistency is the  
12 language that goes on to say one of those 11  
13 project descriptions is very expressly the  
14 production of alternative and renewable fuels in  
15 California.

16 And so there's an asymmetry there that's  
17 created because the statute doesn't have the same  
18 express intent in terms of our language regarding  
19 the manufacture of vehicle technology or  
20 components.

21 And so all we're suggesting here is to  
22 sort of create that symmetry within the statute or  
23 within the regulations that we interpret this to  
24 mean that the language allows us to provide  
25 funding, not only for projects that would produce

1 alternative fuels in California, but also produce  
2 vehicles that can use low carbon or zero emission  
3 vehicles, or the components that go into the  
4 fabrication of those vehicles. As Susan mentioned  
5 earlier, the advanced batteries, or any other  
6 component that if it's integral to a low emission  
7 or zero emission vehicle that can be used to use  
8 those low carbon fuels.

9 So we're just trying to create a certain  
10 symmetry is all.

11 MS. FUGERE: Within the statute, itself,  
12 or the statute --

13 MR. SMITH: Correct.

14 MS. FUGERE: -- lacked that symmetry.  
15 Okay. Thank you, that helps.

16 MS. SCHWYZER: And the part of the  
17 statute that Mike is talking about is section  
18 44272(c) with 1 through 11 under that.

19 MR. SMITH: Thanks, Diana.

20 MS. FUGERE: Okay. And with regard to  
21 the restrictions, I think maybe again the use of  
22 the term a project that is mandated is probably  
23 where some clarity can be brought in.

24 I had some questions about the selection  
25 of Advisory Committee members. it seemed to me

1       just -- because there were no dates here, and so I  
2       assume this was written after the fact, but it's  
3       not clear because they're kind of just saying we  
4       can -- the policy committee can accept  
5       applications from persons.

6               It appears to be at any time. So it  
7       might be useful to add when, how frequently, you  
8       know, once a year, what parameters for additional  
9       interest groups. So we could get some clarity on  
10      that.

11             And then just broadly, it's between the  
12      Advisory Committee duties and the purpose of the  
13      investment plan, so you've got an Advisory  
14      Committee and a policy committee. And I thought  
15      it would be helpful to bring these two better into  
16      synch in the regulations. Because it's not clear  
17      that the Advisory Committee plays off of the  
18      investment plan, or what date -- it's not clear  
19      that the investment plan has to come out before  
20      the Advisory Committee meeting, or it just seemed  
21      to me that they weren't necessarily playing off of  
22      each other very well. You know, the step-by-step  
23      process wasn't clear to me.

24             So if you just read it kind of free of  
25      what we already know, it just says the role of the

1       Advisory Committee shall be to hold one or more  
2       public discussions and arrive at recommendations.

3               But then there's very specific input  
4       with when the draft investment plan has to be out.  
5       But it doesn't really reference the Advisory  
6       Committee, itself, that should it do so before the  
7       Advisory Committee meets.

8               And so there's just more integration  
9       between those two processes, it would be helpful.

10              And then just kind of reiterating what  
11       Bonnie had ended with. I think it would be useful  
12       to not finalize these regulations until the  
13       investment plan is out. So we can make sure that  
14       the goals of the rulemaking have actually been  
15       achieved, which you have here, which is develop  
16       and adopt regs to clarify ambiguities and to  
17       create certainty in administering the program.

18              At this point I'm still not exactly sure  
19       that those are -- that that has been done and  
20       achieved. And I think would be much more clear  
21       once the investment plan is out.

22              And so until we see the investment plan,  
23       I think it would be -- I would hope that these  
24       rules are not finalized until they're all out so  
25       we can comment on them holistically.

1           ASSOCIATE MEMBER DOUGLAS: Can you  
2 address that? I mean I think yes, but go ahead.

3           MR. MIZUTANI: In terms of the OIR the  
4 regulations purpose really was more to sort of  
5 establish more of a framework and a context. And  
6 so that the investment plan would be able to be  
7 developed in a public process.

8           And it wasn't intended to basically  
9 incorporate the investment plan, but really just  
10 to provide the framework.

11           If we were to stagger, let's say, the  
12 investment plan and the rulemaking, the rulemaking  
13 has some very specific schedule deadlines that  
14 basically would, if we sort of staggered it with  
15 the investment plan, probably we would probably  
16 have a regulation probably the end of next year.

17           And our intent was to try to have the  
18 regulations in place, as well as the investment  
19 plan, and adopted so that we could go to the sort  
20 of funding phase before the end of this fiscal  
21 year.

22           ASSOCIATE MEMBER DOUGLAS: But, Chuck,  
23 could you please put up the timeline that you had  
24 for the regulations, again?

25           My sense is that the public comment

1 period on the draft regulations very much  
2 encompasses the time in which we're going to have  
3 draft and potentially final investment plans out.

4 So, if stakeholders believe, after  
5 looking at the draft and, you know, potentially  
6 final investment plans, that it, in conjunction  
7 with the regulations, does not provide sufficient  
8 direction for the program, they'll have the  
9 opportunity to raise that in the rulemaking.

10 MS. FUGERE: Okay, yeah, I just didn't  
11 see the investment -- I may have missed the date  
12 when the investment plan is going to come out.

13 ASSOCIATE MEMBER DOUGLAS: Well, we're  
14 going to put out a draft before the October 6th  
15 meeting, at least ten days before. Ideally  
16 significantly before.

17 But beyond that draft, staff, do you  
18 have potential dates for updating of that draft?

19 MR. SMITH: We have given a good deal of  
20 thought to how we schedule the finalization  
21 adoption of the investment plan. Part of the  
22 difficulty or challenge that we're facing now is  
23 the upcoming holidays. And upcoming, by that I  
24 mean Thanksgiving and Christmas.

25 So, if we -- in looking at when we might

1       adopt an investment plan and work backwards, we  
2       can try to adopt something prior to the  
3       Thanksgiving holidays, which would still give  
4       plenty of time for the development of an  
5       investment plan with enough public input -- with  
6       public input.

7               It may be that if we need longer, then  
8       we have to go into early December. And so we're  
9       giving some thought to that timeframe, and then  
10      working backward. But we haven't finalized  
11      anything yet. But that's just to give you an idea  
12      of where we're --

13             MS. BROWN: But, Mike, you're going to  
14      have a schedule for the investment plan fairly  
15      soon --

16             MR. SMITH: Yes, yes, we will.

17             MS. BROWN: -- and I think when folks  
18      see that, it will become more clear where the two  
19      parallel processes intersect. And I think you're  
20      a little bit, you know, at the moment we don't  
21      have that published. But it is the intent --

22             MS. FUGERE: But, yeah, I just wanted  
23      to make sure --

24             MR. SMITH: That's correct. We will  
25      be -- we definitely will be publishing a revised



1 schedule. And probably we need to, as we're  
2 hearing today, is not segregate these timelines,  
3 the rulemaking and the investment plan timelines,  
4 but show how they mesh. And how they work  
5 together.

6 And so that will be our task, is to  
7 provide that to the public. And we'll do that in  
8 very short order.

9 MS. FUGERE: Okay. Thank you. Yeah,  
10 because September 19th is coming up, and that's  
11 when written comments are due. So it would be  
12 helpful. I don't know if you're anticipating  
13 having the investment plan out before that time.

14 MR. SMITH: Not sure yet. We're trying  
15 to have it out as far in advance of the October  
16 6th Advisory Committee meetings as possible.

17 But we will, hopefully this week, we'll  
18 have a new schedule out that everybody will be  
19 able to react to.

20 MS. FUGERE: Thanks.

21 ASSOCIATE MEMBER DOUGLAS: We are out of  
22 blue cards. Why don't we turn to the WebEx and  
23 the phone.

24 MR. MIZUTANI: All the people, you are  
25 now un-muted. But please try to keep your

1 background noise at a minimum. We do have 40  
2 people on the phone lines. Thank you.

3 Does anyone have any comments on the  
4 phone?

5 MS. GRAY: Yes, I have a question. Gina  
6 Gray from WSPA.

7 MR. MIZUTANI: Yes, Gina.

8 MS. GRAY: All right, thank you.  
9 Commissioner and Staff, this is a clarification  
10 question, which sort of in addition to the  
11 question and commentary that Joe Sparano provided  
12 this morning. And it relates to the full fuel  
13 cycle assessment discussion that took place.

14 I think what we were intending by our  
15 comments was basically try to get clarification.  
16 Because we know that ARB, for instance, is working  
17 away on modification to the entire LCA process.  
18 And has shown indications that they will be  
19 including some mention or some consideration in  
20 some fashion of the land use change issues.

21 But in the CEC documentation for this  
22 AB-118 process, it seemed to state very clearly  
23 that at least from the initial go-round that staff  
24 was proposing to just go forward with the  
25 California GREET model and include zero land use

1 change assessment.

2 And so perhaps this is a timing issue  
3 where the CEC Staff are proposing that down the  
4 road as more information is gained, that you will  
5 then be including land use change components to  
6 the model for AB-118.

7 But it just seemed from the  
8 documentation that there wasn't an alignment  
9 between what CEC was doing under AB-118 and what  
10 CARB was doing under LCSS.

11 MS. SCHWYZER: Okay, this is Diana  
12 Schwyzer. I just want to clarify that we are  
13 planning to use the most -- we're working with ARB  
14 to revise and update the GREET model and to bring  
15 in the indirect land use change work. As you  
16 know, they're having consultants work on that.  
17 And they are planning to use a number for that in  
18 the low carbon fuel standard, last I heard.

19 And we are planning to use the same  
20 number that they do. And then we have ongoing  
21 work in conjunction with them to continue revising  
22 the model. But our plans to, yes, take into  
23 account the indirect land use change emissions as  
24 well as direct land use change in the same way  
25 that ARB is doing that for the low carbon fuel

1 standard.

2 MS. GRAY: Let me ask a followup. Okay,  
3 sorry --

4 MR. MIZUTANI: Go ahead.

5 MS. GRAY: I guess from a timing  
6 perspective the followup question would just be  
7 that it sounds that your adoption process -- well,  
8 let's put it this way, the documentation sounds  
9 that it will be in the process of being finalized  
10 in the October timeframe. And then you'll be  
11 working through OAL, et cetera, in hopes of going  
12 to an adoption hearing in January with the CEC  
13 Board.

14 But at this point in time, we are not  
15 too sure where ARB is going to be on the LCSS,  
16 whether it's December or it might be January or  
17 February.

18 But I'm hearing, I think, that you're  
19 hoping that your documents in October will include  
20 sufficient information on the land use change  
21 issues, that when you go and start to make  
22 decisions on which projects are to receive AB-118  
23 funding, by then, i.e., sort of early '09, you  
24 should have sort of something that's in synch with  
25 what ARB has done.

1           MR. PANSON: Yeah. This is Andy Panson  
2           from ARB, again. One of the steps in this process  
3           that wasn't specifically or explicitly talked  
4           about is as part of the AB-118 project evaluation,  
5           ARB is adopting what we're calling air quality  
6           guidelines, or kind of more informally anti-  
7           backsliding guidelines that apply both to the ARB  
8           program, and --

9           MR. SPEAKER: I don't think it's going  
10          to be any more than like a half an hour more.

11          MR. PANSON: -- and the Energy  
12          Commission's program. And that's something that's  
13          required in statute. And it's to insure that  
14          there is no backsliding on air quality progress.

15          We've actually just released our staff  
16          report on Friday, and we're going to take that  
17          proposal to our Board in September.

18          And what it says in the staff report is  
19          that we're going to be using the same tools that  
20          the low carbon fuel standard is going to be using,  
21          and how we analyze projects for air quality  
22          benefits.

23          And that means we're going to be using  
24          the GREET model and the updates that are being  
25          done as part of the low carbon fuel standard

1 meeting and evaluation of the land use change.

2 And that will apply to, as I said, both the Energy  
3 Commission and the ARB programs.

4 Now, we're going to be adopting that, or  
5 our Board's going to be considering it in  
6 September, which is prior to the completion of the  
7 low carbon fuel standard. And so the way that  
8 we've written the regulation is that, you know, it  
9 will utilize those tools, you know, upon their  
10 adoption by the Air Resources Board.

11 And when we finalize the low carbon fuel  
12 standard we're going to be going in and updating  
13 this regulation to explicitly say that, yes, now  
14 the low carbon fuel standard tools have been  
15 adopted; and that's what will be used for the air  
16 quality analysis.

17 We do have to provide provisions in here  
18 for, you know, how to handle the analysis, you  
19 know, prior to the low carbon fuel standard being  
20 adopted. And what we're doing for that is using  
21 the analysis, you know, from the state alternative  
22 fuels plan, meaning the existing GREET model.

23 But in the staff report we're saying  
24 that we're going to look at, you know, any  
25 advances in knowledge that have been, you know,

1       that we've had since the state alternative fuels  
2       plan, meaning essentially we're going to look at  
3       where we are with the indirect land use issue.

4               So, I think there is going to be a clear  
5       tie-in with the low carbon fuel standard.

6               MS. GRAY: All right, I think that helps  
7       clarify a lot, Andy. And I'm not expecting an  
8       answer to this question, but I want to ask you to  
9       consider how the Commission and the ARB would  
10      treat a situation whereby you provided AB-118  
11      funds to a project, which may be a multiyear  
12      project, and two years down the road you found  
13      that, in fact, the science had evolved to the  
14      point where it showed that potentially that fuel  
15      or that technology may not be as great of an  
16      advantage as you thought compared to petroleum  
17      fuels.

18              And what would you do in that situation?  
19      Are there going to be provisions in the contract  
20      written with people that somehow deals with that  
21      situation? So I'll just leave that as food for  
22      thought.

23              ASSOCIATE MEMBER DOUGLAS: Thank you,  
24      that's a good question and we will consider that.

25              Next.

1           MR. MIZUTANI: Anyone else on the phone  
2           that would like to make a comment?

3           MS. STURBIN: Yes, can you hear me? This  
4           is Carol Sturbin.

5           MR. MIZUTANI: Yes.

6           MS. STURBIN: I thank you. I have a  
7           question that I don't know the answer, which maybe  
8           I should, but I appreciate the opportunity to ask.

9           Do you know if the program will be  
10          requiring matching funds?

11          MR. MIZUTANI: I think that's one of the  
12          criteria, but it's going to be, again, dependent  
13          on the particular solicitation.

14          MS. STURBIN: Okay. If I may make a  
15          comment, just for consideration. I think many  
16          people there may be familiar with (inaudible) and  
17          our advanced work that we're doing on clean and  
18          multiple fuel engine controls.

19          And we have invested a tremendous amount  
20          of our own money over the years, but we're not a  
21          large company. And since we've invested so much,  
22          for instance last year was over a million dollars,  
23          this year it's close to that.

24          And we're getting to the point where we  
25          can't afford to continue to do that. So, we're



1       unable to answer solicitations that people in  
2       California, Texas and other places, including  
3       California, as I said, would like us to put in,  
4       answer a solicitation -- but we're at the point  
5       now in investments where we may not be able to do  
6       that unless you would consider putting in a clause  
7       of looking at investments that companies have made  
8       on their own, say, previously, that could act as  
9       matching funds.

10               If we made investment, and it's been on  
11       our own, I would like to suggest that you  
12       consider, with smaller companies like us, where  
13       oftentimes the advanced technical breakthroughs  
14       come through, with similar companies as ours, that  
15       you consider having some sort of clause that  
16       allows for previous investments that individual  
17       companies have made on their own.

18               MR. MIZUTANI:   Okay, thank you for the  
19       comment.   I think we'll take it under advisement.

20               MS. STURBIN:   Thank you.

21               MR. MIZUTANI:   Anyone else on the phone  
22       that would like to make comments?

23               Hearing none, -- hello?

24               I think that concludes our comments from  
25       the phone people.

1           ASSOCIATE MEMBER DOUGLAS: Very good.  
2       Well, with that, then, the workshop is adjourned.  
3       Thank you, everybody. We appreciate all of your  
4       time today.

5           (Whereupon at 11:55 a.m., the Committee  
6       Workshop was adjourned.)

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