

MR. FENTIS: Thank you. Good afternoon. Thank

11 you for allowing me the opportunity to address you.

12 My name is John Fentis, and my current job is I'm
13 the Environmental Project Director for the California
14 District Attorneys' Association.

15 I want to make it clear like most lawyers will
16 start out with a disclaimer. I'm not speaking for CDAA
17 today, but I'm speaking as a former prosecutor for the
18 City of Long Beach with 25 years of prosecutorial
19 experience, 15 of which were spent enforcing environmental
20 regulations in the state of California. Not an easy thing
21 to do.

22 And let me start out by saying I really
23 appreciate the work that CARB has done in not only
24 designing an effective Enforcement Program, but doing it
25 in a time when resources are dwindling. And during these

1 kinds of times, it's always the most difficult
2 conversation to have in terms of enforcement and
3 continuing to try and execute the objectives of your
4 Enforcement Program in times when you don't have money to
5 do it.

6 Most of my comments today I want to talk about
7 are really in conjunction with the term "environmental
8 justice." And I appreciate the fact that CARB has made a
9 commitment to embrace the concept of environmental
10 justice.

11 Environmental justice is an easy thing to
12 describe. But unless you've actually visited the
13 communities that are impacted in this way, it's a very,
14 very difficult thing to visualize.

15 Let me make one suggestion to CARB, and this
16 comes from former Police Chief William Bratton from the
17 city of Los Angeles. During the time he was police chief
18 for the city of Los Angeles, he developed the concept of
19 predictive policing. And basically what that means is
20 taking the resources that you have and focusing them upon
21 those areas that demonstrate the highest level of
22 noncompliance. In short, to borrow a phrase, it's like
23 going into the belly of the beast. And that's where
24 really the hard job of enforcement is done.

25 And I'm sure that in your database of statistics

1 you have areas that can be easily identified as having
2 demonstrated high levels of noncompliance. Just to name a
3 few, we can start with ports of Los Angeles and Long
4 Beach, port of Oakland, the I-710 corridor, and most
5 recently where I visited were the cities around Colton,
6 San Bernardino, Mira Loma, and in those areas where the
7 movement of goods is such that the Clean Truck Program
8 that's implemented by the port of Long Beach, it's a very
9 easy stretch to see the truckers take the old equipment
10 and use those trucks to transport goods to those other
11 areas, such as San Bernardino and Colton, where the cancer
12 rates have been demonstrated to be 3200 in a million. And
13 it's a very disheartening thing to see children under the
14 age of five years old carrying around their own breathing
15 apparatus.

16 So we might start with that concept of predictive
17 policing. And I would encourage CARB to go ahead and
18 explore that concept and see if it can better apply to
19 those areas of enforcement that you work in.

20 Let's talk about repeat violators for a second.
21 The biggest complaint I have heard as a former prosecutor
22 is the prosecutors simply do not get enough cases from the
23 Air Resources Board and the local air quality management
24 districts. Not an unfamiliar complaint. And I think it's
25 important that some system be developed.

1 I can give you one example from the vehicle code.
2 We have a system of points. If you get so many points
3 within three years, you lose your license.

4 Well, I suggest some sort of model can be
5 developed to address this issue for repeat violators in
6 the area of perhaps fix-it tickets, the previous speakers
7 to be mentioned.

8 It's important for prosecutors to be very
9 involved in this process, because there are a myriad of
10 other remedies available that a prosecutor's office can
11 use that are not available to CARB. Unfair businesses
12 practices is one. And I think it's important that we
13 honor those businesses that do comply with the law and
14 severely punish the ones that don't.

15 We work in an arena of negligence, and we can
16 take time on the first bite of the apple to explain the
17 negligent conduct, but when it continues to happen, it's
18 no longer negligence. And that's something that should be
19 addressed.

20 The next thing I want to talk about are SEPs.

21 And, Kirk, thank you very much for explaining the
22 SEP process.

23 I'm fully aware of it. And as a prosecutor, I
24 engaged in many of those kinds of resolutions of very,
25 very tough cases.

1 But one of the complaints I have heard and one of
2 the complaints that I constantly ran into, especially from
3 some of the environmental justice activists in the
4 communities that I visited, is there is simply not enough
5 money getting back to the members of the community which
6 has been most severely impacted by the alleged violations.
7 And while 25 percent is not a figure to be scoffed at, I
8 think in my opinion you should explore ways of perhaps
9 increasing this figure.

10 And while I'm very mindful and respectful of the
11 Legislature infrastructure which has been developed to
12 address how penalties get distributed or disbursed, there
13 are a lot of other creative ways -- environmental trust
14 funds are one -- whereby through a judicial settlement the
15 money can be disbursed in such a manner so that it
16 actually gets back and impacts the lives of the people who
17 have suffered from the environmental harm. And I think
18 some consideration should be given to that.

19 You should also consider developing more specific
20 types of SEPs that are designed to alleviate environmental
21 harm. One of the consistent complaints I've heard of
22 around school areas that some of the diesel particulate
23 matter that affects the schools can be addressed simply by
24 planting more trees, which are designed to act as filters
25 so to reduce diesel particulate matter that is available

1 in these areas.

2 The last thing I want to talk about is how do you
3 go ahead and affect a resolution of a problem as large as
4 the unclean air that many communities breathe? And I
5 think it's a conversation that has to involve everyone.
6 And the way you do that is by entering into collaborative
7 efforts, not only with non-governmental entities, but also
8 businesses themselves that are located within these
9 communities so that they can form task forces designed to
10 identify the specific harms their communities face. And
11 working together everybody can solve the problem.

12 A great example of this is up in east Oakland.
13 One of the activities up there, the organizations, is the
14 Elmhurst Avenue Blight Committee. I recently attended one
15 of their task force meetings and there were actually three
16 businesses that were present during the meeting actively
17 working with the concerned citizens to address the
18 problems that their community faces.

19 It's not an easy thing to set out with the idea
20 that we're going to solve all of the problems. But I
21 would encourage the development of the system whereby all
22 groups are brought to the table to engage in a
23 conversation designed to achieve your enforcement
24 objectives without necessarily hitting people over the
25 head with a two-by-four. I'm very sensitive to some of

1 the comments that have been made here on behalf of
2 industry, and conversations should not be ceased. It
3 should be constantly engaged in with a view towards
4 everybody working together to solve the environmental
5 problems.

6 Thank you very much.

7 MOBILE SOURCE ENFORCEMENT BRANCH CHIEF JACOBS: I
8 would just like to just briefly, John, address the term
9 you used here, "predictive policing issue."

10 And I just wanted to share with you and the
11 audience, I know there is a lot of folks that are very
12 interested in environmental justice, something that we're
13 very concerned with here at the Air Resources Board. Just
14 share some statistics what we've done in calendar year and
15 historically on the environmental justice program.

16 This year, we've had 131 days of enforcement in
17 environmental justice communities, which are the areas you
18 mentioned, the port of Long Beach, Los Angeles, port of
19 Oakland, Colton, and the other areas indicated. And
20 roughly 6,000 inspections with about 800 violations.
21 That's about a 14 percent noncompliance rate. That's
22 where we do focus resources, as we do at the Mexico
23 border, the previous speaker's covered. And program
24 today, we have had roughly 50,000 inspections in
25 environmental justice areas with over 6,000 violations.



1 So it is a critical part of our program. And we
2 appreciate you pointing that out about the policing
3 practices. Thank you.

4 MR. FENTIS: Thank you, Paul.