



South Coast Air Quality Management District

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Mr. Daniel R. Elliott III

Chairman, Surface Transportation Board

395 Eye Street, SW

Washington, D.C. 20423-0001

Re: U.S. Environmental Protection Agency—Petition for
Declaratory Order, STB Finance Docket No. 35803

Dear Chairman Elliott:

The U.S. EPA has filed with the Surface Transportation Board a Petition for Declaratory Order to determine whether certain rules proposed by the South Coast Air Quality Management District (District) and recommended by the California Air Resources Board (CARB) relative to locomotive idling would be preempted by federal law if EPA were to approve them into the California state implementation plan (SIP) under the Clean Air Act. I ask that you accept this letter into the record as part of the District's reply to the EPA petition, and, as Chairman of the District's Governing Board, I urge you to consider the following points in making your determination.

The District is the regional agency primarily responsible for air pollution control in the four-county Los Angeles-Palm Springs area. It has over 16 million inhabitants and covers over 10,000 square miles. It also has the worst air pollution in the nation. The region for which the District has responsibility includes some of the largest railyards in the West, such as San Bernardino Yard and the four-yard complex in Commerce, CA, and the highest densities of rail lines in California. Many of these areas are surrounded by the most economically disadvantaged residents, who bear a disproportionate share of the burdens of air pollution and its adverse health effects. Unnecessary idling of locomotives directly impacts these residents and creates a significant environmental justice issue in our region. President Obama has placed particular emphasis on addressing environmental justice

issues, including spearheading an interagency Memorandum of Understanding, dated August 4, 2011, and signed by the Department of Transportation among other agencies, to implement Executive Order 12898. That order calls upon each covered agency to identify and address disproportionately high and adverse human health impacts of its programs, policies, or activities on minority and low-income populations. The MOU specifically calls for a focus on four identified areas, including "impacts from commercial transportation and supporting infrastructure ('goods movement')". (MOU, Section III D.) It is thus particularly important that the STB do what it can to allow the District to address the serious problem from idling freight locomotives within our region.

The Clean Air Act recognizes that the primary role in combating air pollution belongs to state and local governments. California has long been a leader in creating innovative regulations to produce significant pollution reductions and improved public health in a cost-effective manner. The above-cited proceeding involves our efforts to reduce harmful emissions from locomotive idling, including nitrogen oxides (NOX) a precursor of both ozone and particulate matter, directly emitted particulate (PM2.5), and cancer-causing diesel particulate matter.

Freight rail is very important to the Nation's economy, including the economy of California and this region. Our twin ports of Los Angeles and Long Beach already handle over 40% of the containerized goods entering this country, and much of this freight travels by rail. For this same reason, however, busy and often congested local railyards represent significant sources of pollution. For example, locomotives produce almost as much NOx emissions as the approximately 300 largest stationary sources in the District, including power plants, factories, and refineries. A CARB study showed that the San Bernardino railyard posed a cancer risk of about 2500 in a million to the maximally exposed individual, about 100 times the maximum exposure allowed by District rules for major stationary sources (25 in a million.) While various regulations are intended to reduce those risks over time, this illustrates the magnitude of the problem.

This proceeding involves two very simple rules: Rule 3501 requires the freight railroads to keep reasonable records of idling events lasting 30 minutes or more, and to file periodic reports with the District. Rule 3502 limits idling to 30 minutes in certain limited circumstances where the train is unattended, or when the crew has been notified of a delay lasting 30 minutes or more.

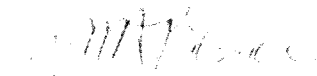
CARB has proposed to EPA that these two rules be included as an important part of California's state implementation plan under the Clean Air Act. EPA has now asked the STB to confirm that the idling and recordkeeping rules can be harmonized with the requirements of the Interstate Commerce Commission Termination Act (ICCTA.).

The idling rules have been carefully designed to minimize any reporting burden on the railroads, and not to intrude on their legitimate operational flexibility and interests. Only unattended locomotives, or trains where crews have been told they will be delayed, are subject to the rules. The rules do not interfere or unreasonably delay with normal railyard

and main line operations. Indeed, they closely parallel EPA's 2008 idling device regulations, except that the latter only apply to locomotives manufactured after July 7, 2008. Thus, the rules also fill a "regulatory gap" where unlimited idling otherwise would not be restricted.

In reaching a determination in this case, I urge the STB to consider the key role that state and local agencies play in achieving the goals of the Clean Air Act, and to honor the oft-repeated principle stated in STB decisions that ICCTA is not intended to preclude states from carrying out their roles in implementing the Clean Air Act. The two statutory schemes can and should be harmonized so that both the public health goals of the Clean Air Act and the transportation goals of ICCTA can be fulfilled.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "William A. Burke", is written over a faint, light-colored circular stamp or watermark.

William A. Burke
Chairman of the Board