

For Immediate Release
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Failure to Disclose Millions in Expenses Forces First AB 32 Lawsuit Against California Air Resources Board

CARB Fails to Comply with Public Records Act Requests

SACRAMENTO -- Today in Sacramento County's Superior Court, eleven business and taxpayer organizations filed a lawsuit against the California Air Resources Board (CARB) for failing to comply with Public Records Act requests for a full accounting of the millions of dollars spent on staff and expenses that have resulted from two years of administering AB 32, California's Global Warming Solutions Act.

"The law allows CARB to impose regulatory fees under AB 32, but at the same time they must account for the staff salaries, travel, consultants and other expenses accrued to implement this law," said Dorothy Rothrock vice-president of the California Manufacturers & Technology Association. "It's too bad that the agency didn't supply this information, and we need to litigate to obtain it."

This is the first lawsuit to be brought against the California Air Resources Board (CARB) associated with AB 32 (Global Warming Solutions Act). These requests came as a result of CARB's AB 32 (Global Warming Solutions Act) proposed Administrative Fee regulation which proposes back fees of \$56 million to pay for the first two years of implementing AB 32 and a projected \$39 million a year in the future. CARB expects these fees would be passed on to energy consumers in the form of higher prices.

"AB 32 policies already will increase electricity costs, transportation fuels, water, and housing costs by billions of dollars," said John Kabateck, Executive Director of the National Federation of Independent Business - California (NFIB). "At a time when California's small businesses and consumers are concerned about every penny they spend, it's important that these fees are fully transparent and the minimum possible," said Kabateck.

The requested documents include those that would substantiate the basis for and the amount of fees to be collected and the nexus between the fees to be paid, the fee payers, and the regulatory activity to be funded with the fees. After repeated requests, CARB hasn't produced the documents.

In order for organizations to make informed comments about the proposed Administrative Fee regulation, these documents are necessary for review and economic analysis. Comments regarding the Proposed AB 32 Fee Regulation will likely be due on or about June 22, 2009, leaving no time for the organizations to challenge CARB's determinations when it takes the issue up at its June 25 and 26 board meeting.

"CARB's failure to produce the requested public records is contrary to AB 32 and will impair the ability of the petitioners' to exercise their rights to participate in the rulemaking process for the Proposed AB 32 Fee Regulation," said Rothrock.

"With the rest of the nation and the world watching the example California is setting with its climate change policies, it is critical the process is transparent, promotes good public policy and is completed in a cost-effective equitable manner," Rothrock concluded.

The plaintiffs in the lawsuit include: California Business Properties Association, California Chamber of Commerce, California Independent Oil Marketers Association, California League of Food Processors, California Manufacturers & Technology Association, California Small Business Alliance, California Taxpayers' Association, Howard Jarvis Taxpayers Association, National Federation of Independent Business-California, The California Black Chamber of Commerce, and the Western States Petroleum Association.

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