



Strengthening the Voice of Business Since 2008

February 14, 2018

William A. Burke, Ed.D.
Chairman
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Re: BizFed concerns with the RECLAIM transition

Dear Chairman Burke,

This letter is a follow up to our January 16th meeting. We are writing to express our concerns regarding the sunset of the RECLAIM program. RECLAIM has been one of the AQMD's most successful programs and while we strongly oppose its sunset, we have equal and substantive concerns about the current process to phase out of the program. These concerns include:

• **The lack of a RECLAIM transition plan is troublesome.** Staff has convened numerous NOx RECLAIM working group meetings (nine NOx RECLAIM working group meetings since AQMP adoption), yet a comprehensive plan to guide both stakeholders and SCAQMD Staff through important elements of the RECLAIM sunset process has not yet been developed or made available. Accordingly, stakeholders lack an understanding of how the numerous rules that have yet to be adopted will interact with one another. Facilities subject to multiple "landing rules" are unclear as to how to plan for a transition out of the program without any information on timing or permitting deadlines. Due to the lack of any such comprehensive plan having been presented to stakeholders, conflicting information is being received in various working group meetings and in proposed rule language regarding RECLAIM sunset final notifications and when a facility will exit RECLAIM.

• **Proceeding with individual rulemakings is leading to concerns about piecemealing.** Staff is proceeding quickly with individual rule development. For example, Staff intends to take the Rule 1146 series to the Board within the next several months and plans to move forward with requiring facilities subject to Rule 1146, 1146.1, and 1146.2 to exit RECLAIM within a few months following rule adoption, though it is not yet clear when facility exit will actually occur or what the resulting consequences will be on the remaining RECLAIM universe. In the recently released rule language, Staff proposed that facilities subject to the rules will be required to submit a permit application by August 1, 2018. ¹ These efforts to move individual rules forward without a thorough and all-inclusive transition plan amounts to piecemealing. How will a facility, subject to multiple rules, plan for comprehensive facility upgrades if they are required to comply with staggered, inconsistent permitting deadlines? SCAQMD Staff analyses for RECLAIM sunset should look at overall

² See January 16, 2018 Working Group #2 Presentation, available.
<http://www4.aqmd.gov/newsletterpro/uploadedimages/000001/Jennifer/1146%20Series/WG%20PAR1146,1146.1,1146.2,PR1100%201-16-18.pdf>

- BizFed's Member Alliance
- AIA - Los Angeles
- Alhambra Chamber
- American Beverage Association
- American Hotel & Lodging Association
- Antelope Valley Board of Trade
- Apartment Association, California Southern Cities
- Apartment Association of Greater Los Angeles
- Arcadia Association of Realtors
- Asian American Business Women Association
- Asian Business Association
- Association of Independent Commercial Producers
- Asusa Chamber
- Beverly Hills Chamber
- Beverly Hills / Greater LA Association of Realtors
- BNIS/UCSS
- Burbank Association of Realtors
- Building Industry Association, LA / Ventura Counties
- Building Owners & Managers Association, Greater LA
- Business & Industry Council for Emergency Planning & Preparedness
- CalAsian Chamber
- California Apartment Association, Los Angeles
- California Asphalt Pavement Association
- California Business Roundtable
- California Cannabis Industry Association
- California Construction Industry and Materials Association
- California Contract Cities Association
- California Employers Association
- California Fashion Association
- California Grocers Association
- California Hotel & Lodging Association
- California Independent Oil Marketers
- California Independent Petroleum Association
- California Life Sciences Association
- California Metals Coalition
- California Restaurant Association
- California Small Business Alliance
- California Sportfishing League
- California Trucking Association
- CALInnovates
- Carson Chamber of Commerce
- Carson Dominguez Employers Alliance
- CDC Small Business Finance
- Central City Association
- Cerritos Chamber
- Citrus Valley Association of Realtors
- Construction Industry Air and Water Quality Coalitions
- Consumer Healthcare Products Association
- Council on Trade and Investment for Filipino Americans
- Culver City Chamber
- Downtown Long Beach Alliance
- Downey Association of Realtors
- El Monte/South El Monte Chamber
- Employers Group
- Engineering Contractor's Association
- F.A.S.T.-Fixing Angelenos Stuck In Traffic
- FilmLA
- Foreign Trade Association
- FuturePorts
- Gateway to LA
- Glendale Association of Realtors
- Glendale Chamber
- Glendora Chamber
- Greater Antelope Valley AOR
- Greater Lakeview Chamber
- Greater Los Angeles African American Chamber
- Greater Los Angeles New Car Dealers Association
- Harbor Association of Industry and Commerce
- Harbor Trucking Association
- Hollywood Chamber
- Hospital Association of Southern California
- Hotel Association of Los Angeles
- Industry Manufacturers Council
- International Warehouse Logistics Association
- Inglewood Airport Area Chamber
- Investing in Place
- Irwindale Chamber
- Japan Business Association of Southern California
- La Canada Flintridge Chamber
- LA Media Lab
- LAX Coastal Area Chamber
- Leadership for Urban Renewal Network
- League of California Cities
- Local Search Association
- Long Beach Area Chamber
- Los Angeles Area Chamber
- Los Angeles Black MBA Association
- Los Angeles Cleantech Incubator
- Los Angeles County Bicycle Coalition
- Los Angeles County Boards of Real Estate
- Los Angeles County Waste Management Association
- Los Angeles Gateway Chamber of Commerce
- Los Angeles Latino Chamber
- Los Angeles Parking Association
- Los Angeles Urban League
- Maple Business Council
- Motion Picture Association of America
- MoveLA
- NAIFA - DC
- NAIOP Southern California Chapter
- National Association of Tobacco Outlets
- National Association of Women Business Owners
- National Association of Women Business Owners, LA
- National Hispanic Medical Association
- Pacific Merchant Shipping Association
- Pacific Palisades Chamber
- Panorama City Chamber
- Pasadena Chamber
- Pasadena-Foothills Association of Realtors
- PHRMA
- Planned Parenthood Southern California Affiliates
- Pomona Chamber
- Rancho Southeast Association of Realtors
- Reforming Industry Association of America
- Regional Black - San Fernando Valley Chamber
- Regional San Gabriel Valley Chamber
- Rosemead Chamber
- Rotary Club of Los Angeles
- San Gabriel Chamber
- San Gabriel Valley Civic Alliance
- San Gabriel Valley Economic Partnership
- Santa Clarita Valley Chamber
- Santa Clarita Valley Economic Development Corp.
- San Pedro Peninsula Chamber
- Santa Monica Chamber
- Santa Monica Junior Chamber
- SCALE LA
- South Bay Association of Chambers
- South Bay Association of Realtors
- Southern California Contractors Association
- Southern California Golf Association
- Southern California Grantmakers
- Southern California Minority Supplier Development Council Inc.
- Southern California Water Committee
- Southern Regional Association of Realtors
- Torrance Area Chamber
- Town Hall Los Angeles
- Tri-Counties Association of Realtors
- United Chambers San Fernando Valley
- United States-Mexico Chamber
- Unmanned Autonomous Vehicle Systems Association
- Valley Economic Alliance
- Valley Economic Development Corp.
- Valley Industry & Commerce Association
- Vernon Chamber
- Vietnamese American Chamber
- Warner Center Association
- West Hollywood Chamber
- West Los Angeles Chamber
- West San Gabriel Valley Association
- West Valley Warner Center Chamber
- Western Manufactured Housing Association
- Western States Petroleum Association
- Westside Council of Chambers
- Westwood Village Rotary Club
- Wilmington Chamber
- World Trade Center
- Young Professionals in Energy - LA Chapter

impacts to the entire RECLAIM transition as well as impacts of individual rules. Precedent is being set in many early rulemakings that will have consequences for all RECLAIM facilities and possibly many non-RECLAIM sources.

- **Staff has not publicly addressed the multitude of thorny New Source Review and emission credit issues arising from the sunset of RECLAIM.** While we understand that addressing offset and New Source Review (NSR) requirements are complicated legal questions, these issues must be thoroughly understood by stakeholders before RECLAIM rules are adopted and facilities are exited from the program. We understand that as of February 2, 2018, the first group of RECLAIM facilities has received their initial notification of RECLAIM exit. We respectfully request an explanation regarding how facilities needing to upgrade will comply with NSR offsetting requirements once they are transitioned out of RECLAIM. There is a dearth of NOx emission reduction credits (ERCs), which Staff acknowledges. We are aware SCAQMD is still in discussions with U.S. EPA regarding RECLAIM sunset and transition to command and control, and has not yet received answers to key questions regarding NSR equivalency, State Implementation Plan concerns, and the reissuing of ERCs. Staff should pause adoption of RECLAIM landing rules until NSR and ERC issues have been resolved with U.S. EPA; however, rulemaking should continue to satisfy AB 617 schedule concerns and allow for BARCT analysis to progress.
- **Staff has not proposed a comprehensive strategy regarding the continued use and value of RECLAIM trading credits.** We seek to better understand what will happen to RECLAIM trading credits (RTCs) as facilities are transitioned out of the program. Pursuant to the amendments to Rule 2002 that were adopted at the January Governing Board meeting, RTCs will be frozen when a facility exits the program (the record for Rule 2002 was based on an evaluation of the first 38 facilities exiting the program, not the entire RECLAIM universe). How will the program continue to function as facilities exit? Will facilities proposing permit modifications pursuant to the sunset be able to use RTCs to offset those modifications? The answers to these and other relevant questions are of critical importance.
- **Monitoring, reporting, and record-keeping requirements will need to transition as well.** During current Regulation XI rulemakings (e.g., 1146 series), District Staff has indicated that monitoring, reporting, and recordkeeping (MRR) requirements for Title V facilities will likely not change moving into command and control, explaining that keeping the same requirements would prevent the need for Title V permit modifications. We do not see how a facility can exit RECLAIM without modifying its Title V permit, as there are many RECLAIM requirements embodied in those permits, and a Title V permit must be complied with. In addition, permits to construct will be required to implement BARCT, which also requires a Title V permit modification, according to Rule 201 and 3002(a)(1). Additionally, current non-RECLAIM Title V facilities may have to adhere to the same MRR requirements as ex-RECLAIM facilities. This means RECLAIM sunset has broad implications beyond the RECLAIM universe.²

Continued adoption and amendment of individual NOx rules as part of RECLAIM sunset will have adverse and unintended consequences for members of the RECLAIM universe, as well as stakeholders outside the RECLAIM program.

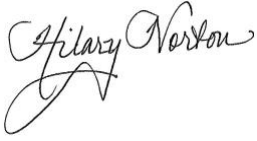
BizFed requests that prior to the adoption of any future RECLAIM sunset rules, SCAQMD Staff be directed to develop and provide a comprehensive plan for the transition from RECLAIM to command and control, including the disposition of RTCs and how New Source Review will function.

The RECLAIM Program took years for the SCAQMD to carefully develop and implement, and the same amount of time (or more) and careful planning is needed to successfully transition it back to command and control.

² (MRR for major sources will likely increase as well http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/rule-1146-1146.1-and-1146.2/par1146_wq_011618.pdf?sfvrsn=6)

BizFed also requests that no facilities exit the RECLAIM program until the full transition plan is released and the approvability of such a plan by the EPA is understood by both SCAQMD and stakeholders.

Sincerely,



Hilary Norton
BizFed Chair
Fixing Angelenos
Stuck in Traffic (F.A.S.T)



David Fleming
BizFed Founding Chair



Tracy Hernandez
BizFed Founding CEO
Impower, Inc.

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