R.J. BERRY JR., INC.

P.O. BOX 468 – SELMA, CA. 93662
BUS. (559) 896-1680 FAX (559) 896-1682
STATE LIC. #433753

March 28, 2007

Governor Arnold Schwarzenegger
State Capital Building
Sacramento, CA 95814

Regarding: California Air Resources Board proposed rule change

Dear Governor Schwarzenegger:

I am the founder and president of a 25-year-old grading and paving contracting firm based in and doing business throughout the Central Valley. I have been following with great interest the California Air Resources Board's (CARB) development of new rules for off-road diesel-powered construction equipment. I am writing to ask for your leadership and assistance on important matters that will have extremely negative impacts on the State's construction industry.

As a family man born and raised in the San Joaquin Valley, I am acutely aware of and interested in air quality problems as they relate to health and the environment. Rules further limiting everyone – individuals, auto manufacturers, and all segments industry -- are inevitable and important, given the State's growth and development. Please know that these views underlie all comments that follow.

I have attended meetings hosted by CARB in the last several months. Though their final recommendations for new rules regulating off-road construction equipment will not be released for a few weeks, CARB has released draft rules that are universally considered unworkable by the heavy construction industry. They plan to adopt their yet-to-be released new rules on May 25, 2007.

In short, CARB has proposed a complicated set of rules that will essentially require my company to replace my fleet of heavy equipment within an impossibly short time frame with newer equipment that meets higher air quality standards. They have presented information that concludes that (a) California contractors can afford to comply with their proposed rule and that (b) the heavy equipment manufacturers will be able to support replacing, repowering and retro-fitting the majority of the State's over 200,000 off-road diesel equipment fleet in the next decade. Both of their conclusions are wrong.

Reducing the emissions from off-road diesel equipment is an important goal. In anticipation of more stringent air quality rules, I have improved my fleet over the last decade. The result of this effort is that, at great expense, my fleet is continually getting younger and less polluting on average. I expected, and still hope, that rules will be adopted that encourage my firm and the rest of the industry to continue to upgrade our fleets and pollute less within a timeframe that works for my small business and the rest of the industry. With CARB's proposed rule, the State is placing conflicting and unattainable demands on heavy construction contractors like myself: execute the backlog of public infrastructure improvement projects (note the nearly $40 billion in road construction authorized in the November elections) while complying with unworkably stringent air quality standards. The State estimates off-road diesel powered construction equipment accounts for less than 1% of the diesel particulate matter pollution and 9% of the oxides of nitrogen pollution statewide.

I am asking that you please get involved in these issues, understand the construction industry's perspective, which is apparently being ignored by CARB, and ensure a practical, balanced rule is put in place. Your leadership is needed to reconcile these impending and serious conflicts.

Thanks in advance for your leadership and assistance on this important matter.

Sincerely,

R.J. Berry Jr.
President

Cc: Susan P. Kennedy