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California State Senate

SENATOR
DAVE COX
FIRST SENATE DISTRICT

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OFFICE OF THE CHAIRMAN
AIR RESOURCES BOARD

Orig: L Andreoni
Copy: R Sawyer
C Witherspoon

March 16, 2007

Dr. Robert F. Sawyer, Chair
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Dear Dr. Sawyer

This is to express the strong concerns that my constituents and I have regarding the off-road diesel equipment regulations currently being considered by the Air Resources Board (ARB). I have been contacted by equipment manufacturers, users, small businesspeople and elected officials objecting to the new rules being contemplated.

This is not the first time I have contacted the ARB regarding harsh and economically harmful regulations that have affected my constituents. In fact, I met with you and others regarding the Portable Equipment Registration Program (PERP), where individuals and businesses are required to register their portable engines or equipment. The ARB recognized that a large portion of these businesses were never notified that their engines were required to be registered. Many of these businesses, through no fault of their own, were cited by local districts and then horrified to see the costs to register their equipment, if they are even eligible to register their equipment, with either the numerous local air pollution control districts or with the ARB. The problems with PERP are yet to be completely resolved, but the ARB feels it necessary to consider more regulations before many previous issues on regulations have been resolved.

The regulations under consideration put manufacturers in a terrible dilemma. They build equipment that is compliant with California clean air standards, which they are required by law to do. The proposed regulations contemplate that equipment cannot be put into use until after a 90-day registration process. This is a terrible situation for a manufacturer or retailer who sells equipment to California residents. Why would someone buy equipment that cannot be used for 90 days? Why must people be forced to register equipment that is manufactured to the proper specifications? This seems to them to be a wasteful and unnecessary process.

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These constituents and I urge the ARB to adopt an entirely different set of rules. There needs to be either a fast-track certification upon purchase of the equipment, or ARB certification at the manufacturer that the equipment is compliant. Registration and delays in use are an excessive overreach of the intent of the laws to require equipment compliant with clean air standards.

It is important that the Board be more sensitive to the economic effects of its regulations and less sensitive to the desires of the ARB staff to engage in a bureaucratic process that gives them intrusive oversight over private businesses, and has a negative effect on employment in the private sector.

In addition, I enclose the comments you have already received from the Sierra County Board of Supervisors. I strongly urge the Air Resources Board to listen to the requests from the representatives of rural areas for exemptions to these onerous regulations, so that small business people and ranchers can continue to operate in ways that preserve the rural way of life that has at the present time a negligible effect on air quality. If the ARB fails to exempt small businesses and ranches, then we risk having these businesses and people moving across the border into Nevada and Oregon, resulting in no greenhouse gas emission reductions.

Thank you for the opportunity to comment on the regulations currently under consideration by the ARB. I look forward to favorable consideration of the many objections to the actions being contemplated as part of the ARB's regulation of off-road diesel vehicles.

Sincerely,

DAVE COX
Senator, First District

DC: dy
Attachment

SIERRA COUNTY

Board of Supervisors
P.O. Drawer D
Downieville, California 95936
Telephone (530) 289-3295
Fax (530) 289-2830

March 6, 2007

California Air Resources Board
1001 "I" Street
Post Office Box 2815
Sacramento, California 95812

Attn: Ms. Catherine Witherspoon
Executive Officer

Dear Ms. Witherspoon:

The Sierra County Board of Supervisors approved its Resolution 2007-026 "In the Matter of Providing Comments and Changes to the Proposed Regulations of the California Air Resources Board Regarding Off-Road Diesel Emissions". This resolution was adopted on March 6, 2007 and makes specific requests for amendment to the proposed rules as a result of our assessment of the significant impacts that this set of regulations will have on numerous family-run and small businesses in Sierra County. A copy of this resolution is attached and we would strongly encourage your favorable consideration of its contents.

This Board received a presentation on February 6, 2007 from Mr. Erik White, Chief-Heavy Diesel In-Use Strategies Branch, and we sincerely appreciate your allowing his attendance. The information exchange was very productive and Mr. White was an excellent resource.

Sierra County is very rural (or frontier) and has a small population of 3500 persons. The County is 80% federal ownership (National Forest system) and much of our private work force is devoted to timber production, agriculture, mining, construction, and other resource-related activities. The proposed regulations will have a measurable impact on the family-run business which may have one or two pieces of equipment and this County cannot afford to allow these small businesses to suffer further localized economic and financial hardship. You have devoted much of your regulatory oversight to various "fleets" but you have not given any identification or recognition of the "ultra small fleet" or as we define it, the family-run business that may have one or two vehicles containing an extremely small cumulative horsepower. You have granted agricultural exemptions and we fully understand and support this category of exemption. We ask you to reconsider the impact and significance of imposing these regulations on the family-run business that is defined as "ultra small fleet" (if we may suggest your consideration of

this definition) and request that you define and exempt these "ultra small fleets" from this regulatory burden. It is vital to the local economy and to the future of the family run operation. It is equally vital to Sierra County.

Please give this your thorough and favorable consideration before the regulatory process becomes more formal.

Thank you and we look forward to your response.

Sincerely,

Sierra County
Board of Supervisors

Peter W. Huebner
Chairman

CC: Senator Dave Cox
Assemblyman Rick Keene
Ms. Mary Pitto, RCRC
Mr. Erik White
Northern Sierra AQMD
Supervisor Ted Owens, Nevada County
Clerk of the Board

RESOLUTION 2007- 026

**BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA
IN THE MATTER OF PROVIDING COMMENTS AND CHANGES
TO THE PROPOSED REGULATIONS
OF THE CALIFORNIA AIR RESOURCES BOARD
REGARDING OFF ROAD DIESEL EMISSIONS**

WHEREAS, the State of California, Air Resources Board is proposing regulations for off-road in-use diesel-powered construction, mining, industrial and other off-road vehicles and the proposed regulations will exclude equipment used in agricultural operations, portable equipment, military support equipment, and handling equipment at ports and rail facilities; and,

WHEREAS, the proposed regulations will require beginning 2008, anyone who owns off-road diesel vehicles of 25 horsepower or more, operating in Sierra County or anywhere in California, will need to report their vehicle information to the Air Resources Board and retrofit its fleet with verified emission control devices; and,

WHEREAS, implementation of the proposed rules presents unique challenges to Sierra County with a total population of 3500 people; spread out over 959 square miles; within a County that is nearly 80% federal ownership; and, with a private work force population that is primarily family-run, forestry, agricultural, mining, and construction related.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA RESOLVES AS FOLLOWS:

1) That the proposed regulations in their present form are opposed and the regulations require an amendment to include a new category and definition of "ultra small fleet" that is far less of an impact than the agricultural exemption provided, and an exemption category for same when such an ultra-small fleet includes a single person business or family-run business that includes three (3) or less vehicles not exceeding a cumulative total of 300 horsepower; and,
2) That the Air Resources Board review these regulations and make appropriate changes to reflect an understanding and appreciation of the localized economic and financial impacts and potential loss of private business caused by retrofits and other obligations under the proposed regulations to these small family-run operations where the respective fleet is three (3) or less vehicles and to single-vehicle fleet operations with less that 300 horsepower.

ADOPTED by the Board of Supervisors of the County of Sierra on the 6th day of March, 2007 by the following vote:
AYES: Supervisors Gutman, Huebner, Nunes, Mitchell and Whitley
NOES: None
ABSENT: None
ABSTAIN: None

COUNTY OF SIERRA

PETER W. HUEBNER
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

HEATHER FOSTER
CLERK OF THE BOARD

APPROVED AS TO FORM:

/s/ James A. Curtis
JAMES A. CURTIS
COUNTY COUNSEL