Weatherford

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Date: March 18, 2010

To: California Air Resources Board

RE: Off-Road Regulation Hearing

We are pleased to see CARB act with the urgency this action merits and are fully supportive of the request made by the petitioners as a minimum effort that CARB should support.

Technology Forcing of implementation and fleet averaging schedule creates regulatory burden that:

- Does not fully appreciate or allow for the decline in emissions that have resulted from the economic malaise that has hit the state.
- Is too aggressive given the capital investment required and the short recovery period for return on investment.
- Is a leading cause of the large number of displacement of companies to less regulatory climate and the loss of jobs and revenue for state and local coffers leading to a reduction in ability to fund key health, safety, protection and environmental oversight functions.

In regards to the inventory, the recession has severely reduced emissions which has not been considered in the current emissions inventory. CARB has not done the work requisite to ensure that the emissions inventory is current and that the provisions are required. It is simple to extrapolate that an approximate 20% effective unemployment would result in a similar reduction in emissions. But the effective reduction in Off-Road activity has been significantly higher than 20% and the related emission reduction from Off-Road equipment common to Construction and Agriculture. Our manufacturing plants have moved over ½ of production out of the state.

Testimony presented on the 11th gave strong evidence as to the inaccuracy of the CARB Inventory. Further, the testimony supported comments we have made in many District and CARB meetings and hearings regarding the inherent inaccuracies of default emission rates above 40% of max capacity. The testimony presented suggested that even 40% is at least twice what should be used.

The aggressiveness of the required fleet turnover to maintain compliance with the fleet averaging rule prohibits reasonable and competitive return on capital employed and saddles CA based operations with accelerated depreciation that must be factored into pricing influencing prices or solvency. What the rule requires is beyond what capital markets can provide or what businesses can accept without risk of insolvency. Further, this regulation severely reduces the competitiveness of California based companies.

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The increased costs of operation associated with compliance with this rule has served as a major factor in the loss of jobs to other states. We have lost ½ of our manufacturing jobs in California as stated above both outside of the US and to other states. The impact of this diminished economic activity has severely impacted revenues to all levels of government. The impact of the loss of revenue is severely impacting all government services from schools to prisons to medical care and social services. The weakest and poorest are suffering not from exposure to an air toxic contaminant but from lack access to employment and the basics that most of us take for granted. While clean air is important, mortality rates are often much higher in association with decreased disposable income. Testimony was presented on the 11th to this fact.

Sliding implementation of the entire rule to allow for 5 years would allow much needed time to allow market pricing to fit the various models of new and used equipment use. A slide in the fleet averaging rules would enable reduced turnover and loss of depreciation resulting in improvement of company financial and stability, economic vitality and support for government agencies.

Since it is accepted that the inventory is incorrect and since it is also accepted that the economy is in perilous condition, this petition request an action that should be viewed as the minimum that would be taken by this Board. We would suggest that the prudent thing to do would be to not only approve the petition requests but to capitalize on the windfall in benefit from the recession and use the suggested 5 year period to study the true need and revisit the rule at the end of the two year period with renewal of the justification based upon more accurate inventory and make prudent changes as would be warranted by that study.

Sincerely,

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