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February 19, 2013

Cherie Rainforth  
Manager, Control Strategies Section  
Stationary Source Division  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Subj: Hornblower Alternative Control of Emissions (ACE) Package  
ACE Comment Period Starting January 31, 2013

Dear Ms. Rainforth:

As you know, we have been working with the California Air Resources Board (CARB) for nearly one year to develop what we understand is the first Alternative Control of Emissions (ACE) package for public comment. After several adjustments regarding exact application language and many spreadsheet changes to the emissions workbook, our ACE package was finally considered complete in mid-January of this year by CARB staff and put out for public comment. We truly appreciate the assistance provided by CARB staff to help prepare the best package for the public comment period.

Unfortunately, neither of us realized that certain language in the 2009 Carl Moyer Program Grant Agreement, partially funding the California Hornblower repower, could arguably negate the emission reduction credits used as a basis for our ACE package. We were as surprised as you to uncover this language in a single paragraph on page 6 of 11 of this Agreement. While our own due diligence could have been better, much time and effort would have been saved had this singular paragraph been pointed out at the onset of our collaboration as a potentially major issue.

That said, we offer the following comments to the argument that the Bay Area Air Quality Management District (BAAQMD) "owns" 100% of the emission reduction credits as a result of the 2009 California Hornblower repower.

1. The 2009 Moyer Agreement resulted in the funding of only a percentage of the total costs of the California Hornblower repower project. As a minimum, we should therefore be allowed to use the emission reduction credits resulting from our privately funded share of the total funds expended to complete the repower.

2. We feel the language regarding emission reductions in the 2009 Moyer Agreement should have been highlighted or given more prominence in the document. As written, it is paragraph 20 of 24 in Section III titled "Air District and Grantee Agree," spanning four pages of legalese. Even had we gone back to review that agreement in the current context, we would not have thought that it meant that the emission reductions could not be used for our ACE package, especially since there is nothing in the newer regulations explicitly referring to such a possibility. With the Commercial Harbor Craft Regulations now in place, vessel owners now more than ever need to be able to take advantage of emission reduction credits. Emphasizing emission credit restrictions in Moyer agreements only makes sense. As a point of interest, we have entered into Moyer agreements with other Air Districts that contain no such restrictions. The later (2011) Grant Agreement we entered into with the San Diego Air Pollution Control District for the Inspiration Hornblower repower has no such restrictive language.
3. The Carl Moyer guidelines require a minimum three-year project life in order to obtain funding. The 2009 California Hornblower repower project was completed in March 2009. Three of her four original (late 1980's) Cummins engines would have had a 12/31/2014 CARB Compliance Date. The fourth engine would have had a 12/31/2013 CARB Compliance Date due to increased annual hours. So the repower was completed 4.75 to 5.75 years earlier than the CARB Compliance Dates. Given the Carl Moyer guidelines on minimum project life, we should be allowed to use the emission reduction credits for the years in excess of the three-year minimum.

We feel that we entered into this collaborative ACE effort in good faith. We are a leader in green initiatives and consider environmental stewardship not only our responsibility, but good business sense. As you know, we have repowered and hybridized a number of vessels on both coasts and will continue to do so to reduce our carbon footprint.

We ask for your consideration of the above arguments and alternatives. Allowing us to use a percentage of the emission reduction credits – those available in excess of the Moyer three-year minimum – would represent a fair compromise, given where we are in the ACE process and the time and effort taken to arrive here.

For your information, this letter has been reviewed and approved by our in-house counsel.

Should you have any questions, please do not hesitate to call me at Office 415-983-8246.

Sincerely,



Charlie Bills  
Corporate Vice President  
Marine Operations & Engineering