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Stuart Drown
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Dear Mr. Drown

The following statement is in response to your request for written testimony, as outlined in your letter to me dated December 28, 2010. I will try to be as brief as possible while addressing your 6 points. It is very hard to go back and remember all the changes but this is accurate according to my recollection.

- 1 I cannot speak for other businesses, but Central Cal Transportation was only marginally involved in the process prior to the original enforcement date of January 1, 2009. I had attended a few hearings in Sacramento to speak and went to a few workshops in Fresno with the San Joaquin Air Resources Board. Drayage was set apart from the general trucking community (as according to CARB), it was the worst offender in the industry. I did not realize that we actually at that time could have an impact on the implementation of the rules.
- 2 In early 2009 we were operating over 240 trucks in the Drayage Industry. If I remember correctly, I think we had about five company trucks. All of the rest of our fleet consisted of independent contractors who owned their own truck, provided their own insurance, paid their own fuel, and were truly independent from us. As the year progressed, we started getting pressure from these contractors to obtain compliant trucks for them to sublease as they were unable to obtain financing on their own. They were looking at the same timeline that I was looking at except that phase two was for them in 2014 as they had less than three trucks where we had to look at 2012 as we would have more than three trucks. When they looked at putting a 25K to 35K DPF filter on a 5K truck that was worn out and then in a couple of years with phase two looming for the NOX retrofit at a probable cost of 30K to 40K, it just does not pencil out, no matter whose money pays for it. I felt that to comply with the regulations in force at that time, the best option for us was to go with 2007 engine technology at a cost of between 100K and 110K per truck. In addition to the reliability factor, we were promised better fuel economy (which has proved to be incorrect). We researched options for funding sources but because we were in effect transitioning from non-asset to asset based, we did not qualify for very much. We had the exact same effect of a dirty truck going away and a new clean truck taking its place but because of the ownership issue, we did not qualify for funding. We went out and between leasing and purchasing, came up with 66 new trucks. Our intent was to either lease or sub-lease these to our owner operators who were going to be out of work on December 31, 2009. They had come to us begging to be able to remain in business as independents and this was the only option that made financial sense at the time. That all changed with the start of the extension process

that started in 2010. All of these independent operators were able to keep on operating with their old dirty trucks. We were left holding the bag with all of these new trucks. I cannot blame them as the cost of a new truck was something that they did want to incur while they could keep on operating during the many extension periods. We were stuck with almost 200K in monthly expenses between the truck payments and the insurance costs alone.

- 3 The impact of all the changes in the regulations has been nothing short of devastating to our company as well as to the entire industry. Every time we had a firm date in site, it changed and we were always getting more and more behind. We looked like fools to our independent operators as each time a deadline loomed, we pushed them harder and harder to honor their commitment to us and get into these trucks but as the deadline kept getting pushed out, they were not eager to comply. There was a person out of Sacramento whose name was Lakbir, who I was told was the leader of quite a few of the independents who kept telling his members that the dates were getting pushed off. When I told our guys on the 31st of December 2009, not to show up for work on Monday the 3rd of January 2009 if they were not compliant, they were told by him that it was all taken care of and to show up in the port as planned. It turned out that he was correct as an extension was put up on the CARB site over the weekend and they could in fact operate on Monday. When it became clear that there was no end in sight for the extensions, we started dropping our price to the independents for their contribution level for the trucks. We also started hiring company drivers to get the trucks on the road. As we put more and more subleased or company drivers on the road, we terminated the leases with the non-compliant trucks as we went. Our competitors snapped them up as the various loopholes in the regulations were exploited. A couple of the loopholes were just addressed at the December 17, 2010 meeting where street turns and exempt class 7 trucks were addressed, finally a year after the regulations were initially supposed to take effect, and they still will not be put into effect until sometime later this year. Some of the more sophisticated nationwide carriers were able to obtain quite a lot of funding to supplement their normal turnover cycle and entered the Drayage Industry.
- 4 There seems to be nothing at this time that can be done to compensate us for the \$3,000,000 that we have put out through December of 2010 since starting our transition from non-asset based to asset based. I had started going to the media with my story after trying everything else that I knew. I had met with CARB and the San Joaquin Valley Air Board numerous times. After going to the media, I got a call from Dr. Telles and talked to him at length about our situation. He was very sympathetic, as was everyone else that I had talked to. I was told that we were an unanticipated casualty of the regulations, and that they realize that we fell down into a crack in the system, there is just nothing that can be done for us at least up until now. I was told this in a private meeting with Cynthia Marvin, the Assistant Division Chief, which was called by her to try to see if there was anything that could be done to compensate Central Cal for the money that we are out due to the ever changing requirements. I do not understand how CARB can keep moving the goal line, affecting businesses like Central Cal who followed the rules and have no responsibility for the effects that their changes have on the people who played by the rules. Those who did little or nothing profit at the expense of those who played fair and followed the rules.

- 5 California can improve its regulatory development process by involving business leaders in the planning process at an earlier stage. There is just no justification for the discrimination that has happened to us. I keep beating the drum on how California could have saved all this money. It does not make sense to put a DPF filter on an old dirty truck. It is ridiculous for me to be operating 100K trucks in the Ports and Railroads. These trucks need to be run over the road for four years with the big carriers. They run them and depreciate them out and then the trucks filter down to people like me. I run them for four years and depreciate them out and they then filter down to the independent operators who will run them until they drop. By making us run these brand new trucks on the lowest paying freight in the industry, the natural order of things has been disrupted. The American Dream is now not a reality for the single truck operator. In the past, someone with the dream of making something better for his family could scrape together the down payment for a 5K to 10K truck to run in the local drayage industry. He could limp along with that truck as he saved his money for something better, and was able to enter the industry on a shoestring. What CARB has done by all of this is to take this dream away. An entry level truck is now 25K to 30K and is now only good for three years when the 2007 engine requirements kick in. Who is going to pay that kind of money for something that will only last three years and is subject to much higher maintenance costs? Historically, our industry loses 10% to 20% of our independents due to a variety of factors. There were always new people coming into the industry to take their places. That is now not the case. The pipeline of replacement drivers and independents has been effectively shut down. The trucking industry is switching to asset based as the independents are leaving the industry in droves. There has got to be some way to compensate companies that are stepping up and filling the voids.

- 6 California needs to look at real scenarios when it decides to experiment with people's lives. Everyone wants clean air and a healthy environment, but when faulty science is used as the basis for laws and we just keep on going forward from there on, there will be problems. I keep reading about the Panama Canal project and its progression. This will have a devastating impact on our International trade. The way international distribution works now is that Far East ships call on the West coast and European Ships call on the East Coast. There are exceptions to this, but this is the way that most freight moves. It is only the smaller, mainly bulk, transport ships that presently use the canal. From either coast, containerized goods move either Westward or Eastward with the bulk of these shipments moving on the rails. The Panama Canal changes everything. No more will the largest ships be restricted to either coast. We have seen a miniature example of this in the past few years here on the West Coast. The Long Beach and LA harbors are able to handle larger, more cost efficient ships than Oakland and the largest ships are bypassing Oakland. I used to haul 20 to 40 loads per day of Scrap Paper to Oakland from Fresno as the inland freight was less due to the mileage difference. That is not the case now as 90% of the scrap now moves south from Fresno to be put on the larger ships that call the southern ports and I lost all this traffic, as did the port of Oakland. Most of this freight is also being hauled by non-compliant trucks, which then travel the 250 miles down to LA, and then turn the container over to a compliant truck to turn the loaded container in to the port, but this is a whole other issue. This was caused by CARB creating a loophole in the regulations, again by not considering that business would find a way to adapt and insulate itself from the unknown factor that their changes created. This practice is legal even though it violates the intent of the regulations. I believe that quite a bit of our freight will disappear from the West Coast and most will be grounded in one of the various gulf ports as it makes sense as the entire

country is more accessible by starting the cross country transfer from the middle of the country. I keep also hearing of other ports, like Vancouver, selling itself as bypassing the turmoil of California and selling expedited service to Chicago. I really believe that the only freight that will be left on the West Coast is freight that is either made here or consumed here. I do not want to see California lose our position in freight but all of this controversy and constant changing the rules make us all look bad to the entire world. I have turned down probably 25 invitations to speak to media outlets to tell my story. It is amazing how many people there are in this country just looking for anything to poke fun of us here in California. That is not my intent. I was born here and have lived here all of my life. I just want a level field to play on. I also want some consistency in the regulations. The decisions that I make last five years or more on these trucks. I cannot just change these commitments every time another change or extension comes along. I need to be able to plan for the future and not always wonder what is lurking around the bend.

Thank you for this opportunity to help out with the future of California. I do not take this privilege lightly even though I am concerned about the size of the target that I may be painting on my back. I hope that my experience will help others not fall into the trap that I have fallen into. By looking at the intended, as well as the unintended, probable consequences that will occur when decisions are made in a vacuum, hopefully the future will not look as bleak as the past couple of years have looked for me. I have made the tough decisions in the past year to survive in the future, and I believe that we are well positioned now to take advantage of opportunities that come up. With a little help toward being made whole, the future looks even brighter and I am optimistic about the future possibilities.

Sincerely,

David B. Chidester
President
Central Cal Transportation