EXHIBIT 3
DATE 4/16/13
SB 226

qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home does not qualify.

Highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions. Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only one of the following.

- A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer).
- A special kind of cargo, goods, supplies, or materials.
- Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles are not considered highway vehicles for purposes of the credit or refund of fuel taxes.

1. **Specially designed mobile machinery for nontransportation functions.** A self-propelled vehicle is not a highway vehicle if all the following apply.
   a. The chassis has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.
   b. The chassis has been specially designed to serve only as a mobile carriage and mount (and power source, if applicable) for the machinery or equipment, whether or not the machinery or equipment is in operation.
   c. The chassis could not, because of its special design and without substantial structural modification, be used as part of a vehicle designed to carry any other load.
   d. The vehicle must have traveled less than 7,500 miles on public highways during the taxable year.
2. **Vehicles specially designed for off-highway transportation.** A vehicle is not treated as a highway vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design, the vehicle's capability to transport a load over a public highway is substantially limited or impaired.

   To make this determination, you can take into account the vehicle's size, whether the vehicle is subject to licensing, safety, or other requirements, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It does not matter that the vehicle can carry heavier loads off highway than it is allowed to carry over the highway.
3. **Nontransportation trailers and semi-trailers.** A trailer or semi-trailer is not treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for carrying on a nontransportation function at an off-highway site. For example, a trailer that is capable only of functioning as an office for an off-highway construction operation is not a highway vehicle.

Public highway. A public highway includes any road in the United States that is not a private roadway. This includes federal, state, county, and city roads and streets.

Registered. A vehicle is considered registered when it is registered or required to be registered for highway use under the law of any state, the District of Columbia, or any foreign country in which it is operated or situated. Any highway vehicle operated under a dealer's tag, license, or permit is considered registered. A highway vehicle is not considered registered solely because a special permit allows the vehicle to be operated at particular times and under specified conditions.

Dual use of propulsion motor. Off-highway business use does not include any fuel used in the propulsion motor of a registered highway vehicle even though that motor also operates special equipment by means of a power take-off or power transfer. It does not matter if the special equipment is mounted on the vehicle.

Example. The motor of a registered concrete-mixer truck operates both the engine and the mixing unit by means of a power take-off. The fuel used in the motor to run the mixer is not off-highway business use.

Use in separate motor. Off-highway business use includes fuel used in a separate motor to operate special equipment, such as a refrigeration unit, pump, generator, or mixing unit. If you draw fuel from the same tank that supplies fuel to the propulsion motor, you must figure the quantity used in the separate motor operating the special equipment. You may make a reasonable estimate based on your operating experience and supported by your records.

You can use devices that measure the miles the vehicle has traveled (such as hubometers) to figure the gallons of fuel used to propel the vehicle. Add to this amount the fuel consumed while idling or warming up the motor before propelling the vehicle. The difference between your total fuel used and the fuel used to propel the vehicle is the fuel used in the separate motor.

Example. Hazel owns a refrigerated truck. It has a separate motor for the refrigeration unit. The same tank supplies both motors. Using the truck's hubometer, Hazel figures that 90% of the fuel was used to propel the truck. Therefore, 10% of the fuel is used in an off-highway business use.

Fuel lost or destroyed. You cannot treat fuel lost or destroyed through spillage, fire, or other casualty as fuel used in an off-highway business use.

Export (No. 3). Export means fuel transported from the United States with the intention that the fuel remain in a foreign country or possession of the United States. Fuel is not exported if it is in the fuel supply tank of a vehicle or aircraft.

In a boat engaged in commercial fishing (No. 4). In a boat engaged in commercial fishing means fuel used in taking, catching, processing, or transporting fish, shellfish, or other aquatic life for commercial purposes, such as selling or processing the catch, on a specific trip basis. They include boats used in both fresh and salt water fishing. They do not include boats used for both sport fishing and commercial fishing on the same trip.

In certain intercity and local buses (No. 5). In certain intercity and local buses means fuel used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public. The bus must be engaged in one of the following activities.

- Scheduled transportation along regular routes.
- Nonscheduled operations if the seating capacity of the bus is at least 20 adults, not including the driver. Vans and similar vehicles used for van-pooling or taxi service do not qualify.

Available to the general public. This means you offer service to more than a limited number of persons or organizations. If a bus operator normally provides charter operations through travel agencies but has buses available for chartering by the general public, this service is available to the general public. A bus does not qualify when its operator uses it to provide exclusive services to only one person, group, or organization. Also, intercity bus transportation does not include transporting students and employees of schools or intercity transportation in a qualified local bus.

In a qualified local bus (No. 6). In a qualified local bus means fuel used in a bus meeting all the following requirements.

- It is engaged in furnishing (for compensation) intracity passenger land transportation available to the general public.
- It operates along scheduled, regular routes.
- It has a seating capacity of at least 20 adults (excluding the driver).
- It is under contract with (or is receiving more than a nominal subsidy from) any state or local government to furnish the transportation.

Intracity passenger land transportation. This is the land transportation of passengers between points located within the same metropolitan area. It includes transportation along routes that cross state, city, or county boundaries if the routes remain within the metropolitan area.

Randy,
Here is the IRS language on my Red Fuel bill. Had 0 no votes in Senate and 83 votes in house. I urge reconsider

Thx