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9
10 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 _____)
13 ASSOCIATION OF IRRITATED)
RESIDENTS, an unincorporated association,)
14 and NATURAL RESOURCES DEFENSE)
COUNCIL, INC.,)

15 Plaintiffs,)

16 v.)

17 UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, LISA P.)
18 JACKSON, in her official capacity as)
Administrator of the United States)
19 Environmental Protection Agency, and)
20 WAYNE NASTRI, in his official capacity as)
Regional Administrator for Region IX of the)
21 United States Environmental Protection)
Agency,^{1/})

22 Defendants.)
23 _____)
24 _____)

No. CV 08-00227 SC

**STIPULATION TO AMEND
CONSENT DECREE DEADLINE**

AND

[PROPOSED] ORDER THEREON

25 ^{1/} Stephen L. Johnson was previously named as the lead defendant in this case in his
26 official capacity as Administrator of the United States Environmental Protection Agency.
Pursuant to Fed. R. Civ. P. 25(d), his successor, Lisa P. Jackson, is automatically substituted.
27 Defendant Wayne Nastri no longer holds the position of Regional Administrator for Region IX of
28 the United States Environmental Protection Agency; his successor, however, has not yet been
chosen, and he therefore remains a named defendant in this action.

1 WHEREAS, Plaintiffs' complaint in this matter alleges that Defendants United States
2 Environmental Protection Agency; Lisa P. Jackson, in her official capacity as Administrator of
3 the United States Environmental Protection Agency; and Wayne Nastri, in his former official
4 capacity as Administrator for Region IX of the United States Environmental Protection Agency
5 (collectively, "EPA") failed to act on the following three state implementation plans ("SIPs")
6 within the time lines set forth in section 110(k)(2) of the Clean Air Act, 42 U.S.C. § 7410(k)(2):
7 (1) the 2003 State and Federal Strategy for the California State Implementation Plan ("2003 State
8 SIP"); (2) the 2004 San Joaquin Valley Extreme Ozone Attainment Demonstration Plan ("2004
9 San Joaquin Valley SIP"); and (3) the 2003 Air Quality Management Plan for the South Coast
10 Air Quality Management District ("2003 South Coast SIP");

11 WHEREAS, on September 12, 2008, the Court entered a Consent Decree, Dkt. 21, which
12 requires EPA to sign for publication in the Federal Register notices of the Agency's proposed
13 actions on each of the SIPs by October 15, 2008, and notices of the Agency's final actions on
14 each of the SIPs by January 15, 2009;

15 WHEREAS, EPA met the October 15, 2008 proposed action deadline for all three SIPs
16 and the January 15, 2009 final action deadline for the 2003 South Coast SIP and those portions of
17 the 2003 State SIP that pertain to the 2003 South Coast SIP;

18 WHEREAS, in light of the number of public comments received in response to EPA's
19 proposed action on the 2004 San Joaquin Valley SIP and related portions of the 2003 State SIP,
20 the parties stipulated to amend the Consent Decree to allow EPA additional time to take final
21 action on those SIPs, which the Court entered as an order on January 15, 2009, Dkt. 28;

22 WHEREAS, the amended Consent Decree provides that EPA shall sign for publication in
23 the Federal Register a notice of the Agency's final action or re-proposed action on the 2004 San
24 Joaquin Valley SIP and related portions of the 2003 State SIP no later than June 30, 2009, and, in
25 the event that EPA re-proposes action, that EPA shall sign for publication in the Federal Register
26 a notice of the Agency's final action on those SIPs by November 13, 2009;

27 WHEREAS, on June 30, 2009, EPA signed a Federal Register notice re-proposing action
28 on the 2004 San Joaquin Valley SIP and related portions of the 2003 State SIP in compliance

1 with paragraph 2(b) of the amended Consent Decree;

2 WHEREAS, the Federal Register notice for the re-proposed action was published at 74
3 Fed. Reg. 33,933 on July 14, 2009;

4 WHEREAS, EPA, in response to Plaintiffs' request, has extended the period for public
5 comment on the re-proposed action from August 13, 2009 to August 31, 2009;

6 WHEREAS, the parties agree that, due to the extended public comment period, a short
7 extension of the November 13, 2009 deadline for EPA to take final action on the 2004 San
8 Joaquin Valley SIP and related portions of the 2003 State SIP is warranted;

9 WHEREAS, Paragraph 6 of the Consent Decree authorizes the parties to extend this final
10 action deadline via written stipulation;

11 NOW THEREFORE, the parties, by and through their undersigned counsel, hereby
12 stipulate to amend the deadline in Paragraph 2(c) of the Consent Decree by replacing it with the
13 following paragraph:

14 2. (c) EPA shall sign for publication in the Federal Register a notice of the
15 Agency's final action on the 2004 San Joaquin Valley SIP and related
16 portions of the 2003 State SIP by December 11, 2009, pursuant to section
17 110(k) of the Clean Air Act. Once signed, EPA shall deliver the notice to
18 the Office of the Federal Register for publication.

19 FOR THE DEFENDANTS:

20 JOHN C. CRUDEN
21 Acting Assistant Attorney General
Environment & Natural Resources Division

22 Dated: August 7, 2009

23 /s/ Rochelle L. Russell
24 ROCHELLE L. RUSSELL
25 United States Department of Justice
26 Environmental Defense Section
301 Howard Street, Suite 1050
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(415) 744-6566
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27 FOR THE PLAINTIFFS:

28 Dated: August 7, 2009

/s/ Brent Newell (with permission)
BRENT NEWELL
Center on Race, Poverty & the Environment

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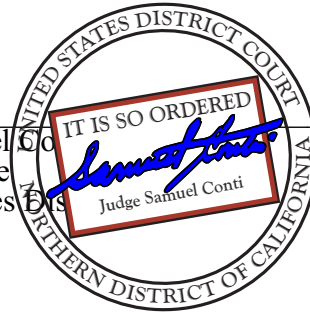
6 Dated: August 7, 2009

7 /s/ Adriano Martinez (with permission)
8 ADRIANO MARTINEZ
9 Natural Resources Defense Council, Inc.
10 1314 Second Street
11 Santa Monica, CA 90401
12 (310) 434-2300
13 amartinez@nrdc.org
14 Attorney for Natural Resources Defense Council

15 PURSUANT TO STIPULATION, IT IS SO ORDERED.

16 Dated: 8/10/09

17 Hon. Samuel Conti
18 Senior Judge
19 United States District Court



1 **CERTIFICATE OF SERVICE**

2 I certify that on August 7, 2009, a true and correct copy of the foregoing **STIPULATION**
3 **TO AMEND CONSENT DECREE DEADLINE AND [PROPOSED] ORDER THEREON**
4 was served electronically via the Court's e-filing system to Counsel of Record.

5
6 /s/ Rochelle L. Russell
7 **ROCHELLE L. RUSSELL**
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