

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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CENTER FOR BIOLOGICAL DIVERSITY)	
<i>et al.</i> ,)	Civ. No. 05-1814 (LFO)
)	
Plaintiffs,)	
)	
v.)	
)	
STEPHEN L. JOHNSON)	
Administrator)	
United States Environmental Protection Agency)	
)	
Defendant.)	
<hr/>)	

STIPULATION TO AMEND CONSENT DECREE

On February 3, 2006, Plaintiffs Center for Biological Diversity, Valley Watch, Inc., Preston Forsythe, Tina Johnson and Jeremy Nichols filed their first amended complaint in this action pursuant to section 304(a)(2) of the Clean Air Act ("CAA"), 42 U.S.C. § 7604(a)(2), alleging that Defendant, Stephen L. Johnson, Administrator of the United States Environmental Protection Agency (hereinafter "EPA") failed to perform mandatory duties pursuant to CAA § 109(d)(1) to complete another cycle of review, revision, and promulgation actions for nitrogen dioxide ("NO₂") and oxides of nitrogen ("NO_x"). Specifically, Plaintiffs alleged Defendant has failed to complete a thorough review of the air quality criteria for NO_x and the primary and secondary National Ambient Air Quality Standards ("NAAQS") for NO₂. Plaintiffs further alleged that the deadline under CAA § 109(d)(1) for Defendant to complete another cycle of review, revision, and promulgation actions with respect to sulfur oxides (SO_x) expired several years ago.

This matter was resolved through a Consent Decree entered by the Court on

November 19, 2007. Paragraph 4 of the Consent Decree provides that any provision of the Decree may be modified by written stipulation of the Parties with notice to the Court. Paragraph 2 establishes a series of deadlines for EPA to take specific actions.

The Parties stipulate that Paragraph 2(a)-(f) shall be modified to incorporate the changes marked below:

2. EPA shall take the following actions by the following dates:
 - a) No later than July 11, 2008, EPA shall issue a final Integrated Science Assessment, a document containing air quality criteria, addressing human health affects of NO_x pursuant to 42 U.S.C. §§ 7408 and 7409(d)(1).
 - b) No later than ~~May 28, 2009~~ June 26, 2009, EPA shall sign a notice of proposed rulemaking setting forth its proposed decision pursuant to 42 U.S.C. § 7409(d)(1) concerning its review of the primary NO₂ NAAQS promulgated under 42 U.S.C. § 7409, and proposing such new primary NAAQS and/or revisions of standards for NO_x as may be appropriate pursuant to 42 U.S.C. § 7408 and 7409(b)(1).
 - c) No later than ~~December 18, 2009~~ January 22, 2010, EPA shall sign a notice of final rulemaking setting forth its decision pursuant to 42 U.S.C. § 7409(d)(1) concerning its review of the primary NAAQS for NO₂ and making such revisions in the primary NO₂ NAAQS and/or promulgating such new primary NAAQS for NO_x as may be appropriate pursuant to 42 U.S.C. § 7408 and 7409(b)(1).
 - d) No later than September 12, 2008, EPA shall issue a final Integrated Science Assessment, a document containing air quality criteria, addressing human health affects of SO_x pursuant to 42 U.S.C. §§ 7408 and 7409(d)(1).
 - e) No later than ~~July 30, 2009~~ November 16, 2009, EPA shall sign a notice of proposed rulemaking setting forth its proposed decision pursuant to 42 U.S.C. §

7409(d)(1) concerning its review of the primary SO₂ NAAQS promulgated under 42 U.S.C. § 7409, and proposing such new primary NAAQS and/or revisions of standards for SO_x as may be appropriate pursuant to 42 U.S.C. § 7408 and 7409(b)(1).

f) No later than ~~March 2, 2010~~ June 2, 2010, EPA shall sign a notice of final rulemaking setting forth its decision pursuant to 42 U.S.C. § 7409(d)(1) concerning its review of the primary NAAQS for SO₂ and making such revisions in the primary SO₂ NAAQS and/or promulgating such new primary NAAQS for SO_x as may be appropriate pursuant to 42 U.S.C. § 7408 and 7409(b)(1).

The Parties further stipulate that Exhibit A to the Consent Decree shall be replaced with Exhibit A attached to this Stipulation.

SO AGREED:

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DATED: December 4, 2008