

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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CENTER FOR BIOLOGICAL DIVERSITY)	
et al.,)	
)	Civ. No. 05-1814 (LFO)
)	
Plaintiffs,)	
)	
v.)	
)	
LISA P. JACKSON, Administrator,)	
United States Environmental Protection Agency, ¹)	
)	
Defendant.)	
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SECOND 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, Lisa P Jackson, 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,

¹ Pursuant to Fed. R. Civ. P. 25(d), Lisa P. Jackson, Administrator, United States Environmental Protection Agency, is substituted as defendant in this matter for Stephen L. Johnson, her predecessor in office.

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. On December 4, 2008, the parties, pursuant to Paragraph 4, filed a Stipulation to Amend Consent Decree that modified deadlines in Paragraph 2(a)-(f) and replaced Exhibit A to the Consent Decree with a version revised consistent with the modified deadlines.

Pursuant to Paragraph 4, the Parties now stipulate that Paragraph 2(h)-(i) shall be modified to incorporate the changes marked below:

2. EPA shall take the following actions by the following dates:

h) No later than ~~February 12, 2010~~, July 12, 2011, 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 secondary NO₂ and SO₂ NAAQS promulgated under 42 U.S.C. § 7409 and proposing such new secondary NAAQS and/or revisions of standards for NO_x and/or SO_x as may be appropriate pursuant to 42 U.S.C. §§ 7408 and 7409(b)(2).

i) No later than ~~October 19, 2010~~, March 20, 2012, 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 secondary NAAQS for NO₂ and SO₂ and making such revisions in the secondary NO₂ and SO_x NAAQS and/or promulgating such new secondary standards for NO_x and SO_x as may be appropriate pursuant to 42 U.S.C. §§ 7408 and 7409(b)(2).

The Parties further stipulate that Page 3 of Exhibit A shall be replaced with the version attached hereto, which has been revised consistent with these modified deadlines.

SO AGREED:

FOR PLAINTIFFS

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