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13 South Coast Air Quality Management District

14 UNITED STATES DISTRICT COURT

15 EASTERN DISTRICT OF CALIFORNIA -- SACRAMENTO

16 PACIFIC MERCHANT SHIPPING)
ASSOCIATION, a California Mutual Benefit)
17 Corporation,)

18 Plaintiff,)

19 v.)

20 CATHERINE E. WITHERSPOON, in her)
official capacity as Executive Officer of the)
21 California Air Resources Board,)

22 Defendant,)

23 NATURAL RESOURCES DEFENSE)
COUNCIL, INC., COALITION FOR CLEAN)
24 AIR, INC., SOUTH COAST AIR QUALITY)
25 MANAGEMENT DISTRICT, and CITY OF)
26 LONG BEACH,)

27 Defendants-Intervenors.)
28

Civ No. 2:06-CV-02791-WBS-KJM

**STIPULATION TO AMEND ANSWERS
OF DEFENDANT CATHERINE E.
WITHERSPOON AND DEFENDANT-
INTERVENOR SOUTH COAST AIR
QUALITY MANAGEMENT DISTRICT;
PROPOSED ORDER**

Pretrial Conference: August 11, 2008

Trial Date: October 7, 2008

Judge: Hon. William B. Shubb

1 TO THE COURT AND ALL PARTIES:

2 IT IS HEREBY STIPULATED by and between Plaintiff Pacific Merchant Shipping
3 Association, Defendant Catherine E. Witherspoon, and Defendant-Intervenor South Coast Air
4 Quality Management District (“SCAQMD”), through their counsel of record, that:

5 1. Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, which provides
6 that "a party may amend the party's pleading only by leave of court or by written consent of the
7 adverse party," Defendant Witherspoon and Intervenor-Defendant SCAQMD may file Amended
8 Answers in this action (a copy of the proposed First Amended Answer of Defendant Witherspoon
9 is attached hereto as Exhibit A; a copy of the First Amended Answer of Defendant-Intervenor
10 SCAQMD is attached hereto as Exhibit B);

11 2. The proposed Amended Answer of Defendant Witherspoon differs from the
12 original Answer only in one respect: where Paragraph 12, Section V, Response to First Claim for
13 Relief, read, “Defendant admits the allegations in Paragraph 12,” the First Amended Answer now
14 reads:

15 To the extent that the first sentence of Paragraph 12 seeks a legal conclusion, no
16 response is necessary in that the regulations speak for themselves. However, to
17 the extent a response is necessary, Defendant denies the allegations in the first
18 sentence of Paragraph 12. Defendant admits the allegations in the second sentence
19 of Paragraph 12. Defendant admits the allegations in the second sentence
20 of Paragraph 12;

21 3. Similarly, the proposed Amended Answer of Intervenor-Defendant SCAQMD
22 differs from the original Answer only in one respect: where Paragraph 12, Section V, Response to
23 First Claim for Relief, read, “Intervenor admits the allegations contained in Paragraph 12,” the
24 SCAQMD’s First Amended Answer now reads:

25 To the extent that the first sentence of Paragraph 12 seeks a legal conclusion, no
26 response is necessary in that the regulations speak for themselves. However,
27 Intervenor generally denies that legally “both regulations establish standards relating
28 to the emission of diesel particulate matter (PM), sulfur oxides (SOx), and nitrogen

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Dated: June 1, 2007

Edmund G. Brown Jr.
Attorney General of the State of
California

By: /s/ Nicholas Stern (as authorized on 6/01/07)

Nicholas Stern
Linda Berg
Deputy Attorneys General
Attorneys for Defendant
CATHERINE E. WITHERSPOON

Dated: June 1, 2007

FLYNN, DELICH & WISE LLP

By: /s/ Erich P. Wise (as authorized on 6/01/07)

Erich P. Wise
Attorneys for Plaintiff
PACIFIC MERCHANT SHIPPING
ASSOCIATION

ORDER

Based on the foregoing Stipulation, IT IS ORDERED that:

1. Defendant Catherine E. Witherspoon and Intervenor-Defendant South Coast Air Quality Management District may file First Amended Answers in the form attached as Exhibit A and Exhibit B, respectively.
2. The First Amended Answers shall be deemed filed as of the date of the issuance of this order.
3. The Plaintiff has waived service and notice of the First Amended Complaint.

IT IS SO ORDERED.

DATED: June 4, 2007



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE