

FILED

APR 10 2008

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

STATE OF CALIFORNIA, by and
through ARNOLD
SCHWARZENEGGER, GOVERNOR OF
THE STATE OF CALIFORNIA, the
CALIFORNIA AIR RESOURCES
BOARD, and EDMUND G. BROWN, JR.,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Petitioner,

WASHINGTON ENVIRONMENTAL
COUNCIL; et al.,

Petitioners-Intervenors,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

ALLIANCE OF AUTOMOBILE
MANUFACTURERS,

Respondent-Intervenor.

No. 08-70011

SIERRA CLUB; et al.,

Petitioners,

ASSOCIATION OF INTERNATIONAL
AUTOMOBILE MANUFACTURERS
CHESAPEAKE BAY FOUNDATION,
INC. ("CBF"),

Intervenors,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

No. 08-70030

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

The motion to consolidate these appeals is granted. Appeal Nos. 08-70011 and 08-70030 are consolidated.

Petitioner's requests for judicial notice in support of petitioner's and petitioner-intervenors' opposition to respondent's motion to dismiss and opposition to respondent-intervenor's motion to dismiss in case No. 08-70011 are granted.

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08-70011

Respondents and respondent-intervenor's motions to dismiss these appeals for lack of jurisdiction are denied without prejudice to raising the arguments in the answering brief. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (stating that merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

All pending motions for leave to intervene will be addressed by separate order.

The following briefing schedule shall govern these consolidated appeals: the opening briefs and excerpts of record are due May 14, 2008; the answering briefs are due June 16, 2008; and the optional reply briefs are due within 14 days after service of the last-served answering brief.

All parties on a side are encouraged to join in a single brief to the greatest extent practicable. *See* 9th Cir. R. 28-4.