APPENDIX G:
Lawsuit Settlement Agreement

SETTLEMENT AGREEMENT

This Settlement Agreement ("the Agreement") is entered into between the Natural Resources Defense Council, Inc. ("NRDC"), Coalition for Clean Air ("CCA"), and Communities for a Better Environment ("CBE") (collectively, "Plaintiffs") and Defendants Michael P. Kenny, Executive Officer of the California Air Resources Board ("ARB"), and John D. Dunlap III, Joseph C. Calhoun, Mark J. DeSaulnier, Lynne T. Edgerton, William F. Friedman, M.D., Jack C. Parnell, Barbara Patrick, Sally Rakow, Barbara Riordan, and Ron Roberts, Members of the Board of ARB, in their official capacities (collectively "ARB Defendants"). Plaintiffs and the ARB Defendants are hereinafter referred to individually as "Party" or collectively as "Parties."

This Agreement is made with reference to the following recitations:

A. On November 15, 1994, ARB submitted to the United States Environmental Protection Agency ("EPA") a revision to the "State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards," hereinafter referred to as the "1994 SIP." The 1994 SIP for the South Coast Air Basin ("SCAB") was prepared by the South Coast Air Quality Management District ("AQMD") and ARB. It memorialized previously adopted air pollution control measures, and included additional control measures for the SCAB to be adopted by AQMD, ARB and EPA on a schedule designed to attain the national ambient air quality standard for ozone in the SCAB by the 2010 deadline established by the 1990 amendments to the Federal Clean Air Act ("FCAA") and to make expeditious progress towards that goal in the interim. Specifically included in the 1994 SIP were timetables for the development, adoption and implementation of such control measures.

B. On September 25, 1996, EPA approved the 1994 SIP, effective February 7, 1997. The specific features of the SIP thus approved and the terms and conditions of approval are set forth

at 62 Fed. Reg. 1150 (January 8, 1997). Certain component measures and commitments had been approved by EPA in earlier actions.

C. Since adoption and approval of the 1994 SIP the ARB has taken numerous actions to implement the plan and additional actions to improve air quality by reducing emissions with control measures not included in the SIP. These control measures will reduce both emissions that were accounted for in the SIP and emissions that were not accounted for in the SIP. Specifically, in 1998 ARB has adopted measures to further control emissions from passenger cars, including sport utility vehicles, heavy-duty trucks and buses, off-highway vehicles and consumer products. In addition to these categories, which were explicitly contained in the 1994 SIP, ARB has also adopted measures to control emissions from aggressive driving, on-road motorcycles and marine pleasurecraft. These measures will achieve 45 tpd of reactive organic gases ("ROG") and 183 tpd of oxides of nitrogen ("NOx") emissions reductions in the SCAB in 2010. These reductions fully satisfy the long-term commitment for NOx reductions from advanced technology for mobile sources as shown on Exhibit 1.

D. On September 18, 1997, Plaintiffs filed their Complaint in the United States District Court for the Central District of California ("the Court"), Action No. 97-6916, hereinafter referred to as "the Action." Named as defendants therein were AQMD, ARB and EPA, and officials and members of the governing bodies of such agencies. The Action was brought under section 304(a) of the FCAA, 42 U.S.C. § 7604(a), to compel implementation of the 1994 SIP. Plaintiffs alleged in their complaint that AQMD and ARB failed to adopt and implement thirty-four control measures to which AQMD and ARB had committed in the 1994 SIP. Three of the thirty-four measures were ARB commitments: M1, accelerated retirement of light-duty vehicles; M4, early introduction of low NOx heavy-duty diesel vehicles; and M7, accelerated retirement of heavy-duty vehicles. The Action also sought declaratory and injunctive relief against EPA to ensure that activities of ARB and AQMD funded by EPA conformed to the 1994 SIP. All of the Defendants filed answers in the Action denying liability or otherwise denying Plaintiffs' claims.

E. On October 5, 1998, Plaintiffs filed a Supplemental Complaint alleging additional violations by the ARB Defendants of the FCAA with respect to ARB's failure in 1997 to adopt at the full emissions reduction level in the 1994 SIP three control measures, ARB's relaxation of a control measure in the 1994 SIP baseline, and the failure of ARB to take action with respect to the Public Consultation required pursuant to EPA's final approval of the 1994 SIP. The Supplemental Complaint also asserted additional claims against EPA and AQMD. The ARB Defendants filed an answer to the Supplemental Complaint on October 20, 1998, denying Plaintiffs' claims. The Supplemental Complaint is included in the Action.

F. In settlement of the Action, Plaintiffs and the ARB Defendants have agreed to settle their differences without admitting or conceding that the allegations or contentions of any Party are true or correct. For informational purposes, a chart attached hereto as Exhibit 5 shows the tonnage of emission reduction commitments of the ARB Defendants under this Agreement, together with the measures adopted by ARB through 1998 referenced in paragraph C above and expected by the end of 2001 in accordance with this Agreement. Plaintiffs have previously entered into a settlement with EPA, and the Action continues to be prosecuted against AQMD. Nothing in this Agreement shall be construed as or constitute an admission or evidence of fault, wrongdoing, or liability.

WHEREFORE, the Parties agree as follows:

1. Proposal and Adoption of Control Measures.

(a) The ARB staff shall submit to the Board and propose for adoption the control measures set forth in Exhibit 2, with implementation proposed for such control measures on or before the implementation dates set forth in Exhibit 2. The ARB Board shall take action thereon on or before the adoption dates set forth in Exhibit 2. Such action by the Board may include any action within its discretion. Once adopted, each control measure adopted pursuant to this Agreement shall be implemented by the ARB Defendants on the schedule in the adopted measure.

(b) ARB shall meet the following schedule for measure M17:

U.S. EPA technology review of 2.0 g/bhp-hr NOx diesel standard (including OBD).	1999
Complete evaluation of testing technologies/procedures to further reduce heavy-duty diesel NOx emissions using roadside and/or in-use compliance testing.	1999-2001
Select method(s) for reducing NOx emissions.	2001
Pilot NOx reduction program(s).	2001-2002
Adopt regulations to implement measure M17	1/2003
Begin implementation.	1/2004

The dates for the actions required under this subsection 1(b) shall be extended for a period of up to one year if circumstances beyond the reasonable control of ARB staff prevent ARB from completing these tasks on time. These circumstances could include, but are not limited to: testing is not completed on schedule, results of the testing are inadequate to support a scientifically sound test, or the pilot program raises technical issues that need to be resolved for a scientifically sound program. At least six months before any scheduled action date for M17, ARB Staff shall provide Plaintiffs notice of any such proposed extension and the reasons therefor and if the Plaintiffs disagree as to whether an extension of a scheduled date is appropriate or disagree as to the appropriate length of time for an extension, the Plaintiffs may institute arbitration proceedings under subsection 3(d)(1).

(c) The near term emission reductions to replace M7 shall be implemented by ARB as set forth on Exhibit 3 attached hereto.

2. Minimum Emission Reductions.

(a) Except as provided in section 3 below, ARB shall adopt and implement measures that will achieve at least the following aggregate emission reductions for ROG and NOx

in tons per day ("tpd") in the SCAB in 2010, as set forth in the following schedule:

MINIMUM COMMITMENTS FOR TOTAL EMISSION REDUCTIONS
(SCAB 2010 tpd)

ADOPTION DATE	ROG	NOx
December 31, 1999	12	
December 31, 2000	14	2
December 31, 2001	16	
IMPLEMENTATION DATE		
January 1, 2001	16*	
January 1, 2003	5	
January 1, 2004	10	2
January 1, 2005	10	
January 1, 2006	16	
Total	57*	2

* 15 tpd of this entry is from the fuel can spillage measure in Exhibit 2 or an alternative measure for equivalent emission reductions, regardless of whether these are on or off baseline.

(b) Emissions reductions in excess of the minimum emissions reductions commitment for a given year may be applied to the emissions reduction commitment of subsequent years.

(c) ARB may meet the obligation set forth in this section 2 by adopting one or more of the control measures in Exhibit 2, by adopting one or more alternative control measures or by implementing clean engine incentive program(s), so long as the aggregate emission

reductions therefrom comply with the schedule for adoption and implementation set forth in this section 2.

(d) Except for 15 tpd in the implementation schedule for January 1, 2001, all emission reductions will count toward the minimum commitments in subsection 2(a) above only to the extent that they reduce emissions in the baseline inventory in the 1994 SIP.

(e) The Parties agree that the minimum commitments for emission reductions were determined by comparing reductions of 1994 SIP inventory emissions resulting from control measures adopted or implemented by ARB to date since adoption of the 1994 SIP to the emission reduction commitments contained in the 1994 SIP. The Parties may, by mutual agreement, adjust the minimum commitments for total emission reductions to reflect additional emission reductions achieved by control measures adopted or implemented by the ARB that are not reflected in Exhibit 1 and that are not otherwise required by or assumed in the 1994 SIP or for any other purpose.

3. Arbitration.

(a) In the event the ARB staff concludes it is technologically infeasible to achieve some or all of the 16 tpd in emission reductions set forth in section 2(a) as a minimum commitment for the adoption date of December 31, 2001, either by adoption of one or more control measures on or before December 31, 2001, or, alternatively, by implementation of one or more control measures therefor by January 1, 2006, ARB staff will, no later than July 1, 2001, provide written notice to the Plaintiffs of this conclusion including the analysis and documentation upon which staff relies for this conclusion. The notice shall also include a statement of ARB Staff's conclusion as to whether the specified emission reductions will remain technologically infeasible to achieve by the year 2010, or, alternatively, whether there is an earlier date when achievement of the specified emission reductions will be technologically feasible and if so what that date is.

(b) For purposes of this section 3, achievement of some or all of the required emissions reductions shall not be deemed "technologically infeasible" unless consistent with Health and Safety Code sections 41712, 43013, 43018 and 43101 the implementing technology is

not reasonably likely to be available by the implementation date in question, or achievement of the emission reductions by that date is not cost-effective or, for consumer products measures only, achievement of the emission reductions by that date is not commercially feasible as provided in Health and Safety Code section 41712. For purposes of the Agreement, a proposed measure shall be deemed "cost-effective" if the cost per ton for implementation of the proposed measure would be equal to or less than the dollar per ton cost for the least cost effective measure previously adopted by ARB.

(c) Unless Plaintiffs disagree with a conclusion by ARB Staff that achievement of some or all of the required emissions reductions is technologically infeasible to achieve by the year 2010 and invoke the arbitration proceeding under subsection 3(d), the ARB Defendants shall to that extent be relieved of their obligation herein to adopt measures by December 31, 2001 to achieve the specified emission reductions. Alternatively, in the case of a conclusion by ARB Staff that technological infeasibility necessitates a later implementation date than is provided for in Section 2(a) for the specified emission reductions, the implementation may be deferred to that date unless Plaintiffs disagree with such conclusion and invoke the arbitration proceeding under subsection 3(d).

(d) (1) If Plaintiffs disagree with the ARB staff's conclusion that achievement of some or all of the required emissions reductions is technologically infeasible, Plaintiffs may institute arbitration proceedings under this subsection 3(d).

(2) Plaintiffs may institute arbitration proceedings under subsection 1(b) or subsection 3(d) by providing written notice to the ARB Defendants that the issue shall be subject to arbitration by an independent arbitrator to be selected by mutual agreement of the Parties. In the event that the Parties are unable to agree upon selection of an arbitrator, Plaintiffs or the ARB Defendants may request that the Court appoint an arbitrator to perform this function. The Parties agree that they shall be bound by the result of arbitration, that it shall be binding arbitration, and

that it shall be conducted in a manner agreed on, or absent agreement, conducted under Title 9 of Part 3 of the California Code of Civil Procedure (beginning at section 1280).

(3) In the event that the arbitrator agrees with a conclusion of ARB staff that achievement of some or all of the required emissions reductions is technologically infeasible to achieve by the year 2010, the ARB Defendants shall be relieved to that extent of their obligation to adopt control measures by December 31, 2001, under the schedule in section 2. Alternatively, in the event that the arbitrator agrees with a conclusion by ARB Staff that technological infeasibility necessitates a later implementation date than is provided in Section 2(a) for the specified emission reductions, implementation may be deferred to the earliest date which the arbitrator finds it will be technologically feasible to do so. In either case, annually thereafter the ARB staff shall submit to Plaintiffs an update of their determination of technological infeasibility demonstrating that the emission reductions remain infeasible to obtain through the year 2010 or by the implementation date set forth in section 2(a) as the case may be. Plaintiffs have the right on an annual basis to request that the arbitrator reevaluate any ARB staff conclusion that some or all of the specified emissions reductions are technologically infeasible to achieve.

(4) If the arbitrator disagrees with ARB staff's conclusion that achievement of some or all of the required emissions reductions is technologically infeasible, (i) the ARB Defendants shall to that extent not be relieved of their obligation to achieve the emissions reductions set forth in section 2 for 2001, and (ii) in case it is no longer possible for ARB to comply with the December 31, 2001, deadline for adoption of control measures to achieve these emission reductions the Arbitrator shall set a new deadline (or deadlines) for the earliest practicable date.

(e) Except as provided in subsection 1(b), this section 3 shall apply only to the adoption or implementation of the 16 tpd of ROG emission reductions set forth in section 2(a) as a minimum commitment for the adoption date of December 31, 2001 and implementation by January 1, 2006, and shall not affect in any manner any of the other scheduled commitments in sections 1 and 2.

4. Semi-Annual Update Meeting. The ARB Defendants agree to host a meeting semi-annually with the Plaintiffs to provide an update to Plaintiffs on the progress ARB is making in fulfilling the provisions of this Agreement, including any information the ARB wishes to have Plaintiffs consider for purposes of adjustment of the minimum commitments for total emission reductions as provided in subsection 2(e), and to resolve any potential conflicts that may arise in the following six month period regarding obligations under this Agreement.

5. SIP Revisions. The ARB Defendants intend to update and propose to revise the 1994 SIP in the year 2000 to, among other things, reflect the most current emission inventory information. The Parties agree that in this Agreement the ARB Defendants are committing to tonnage reductions relative to 1994 SIP inventories. The ARB Defendants will clearly describe in writing how these emission reduction commitments in section 2 of this Agreement relate to the inventory numbers used in the proposed 2000 SIP and how the emission reductions specified in section 2 of this Agreement can be converted to the proposed 2000 SIP inventory numbers. Approval by EPA of a revision to the 1994 SIP shall not relieve the ARB Defendants from their obligation to adopt measures to achieve the minimum emissions reductions set forth in section 2 of this Agreement.

6. Dispute Resolution. If the Plaintiffs conclude that the ARB Defendants have breached this Agreement, they shall send a notice to ARB specifying the respects in which they contend the Agreement has been breached. The ARB Defendants shall have 60 days after receipt of the notice to cure or remedy a breach noticed by Plaintiffs, and the Parties shall meet and confer in good faith within that 60 day period to determine if the breach can be resolved in a way that avoids further litigation of the issue. Upon the expiration of such 60 day meet and confer period, Plaintiffs may thereafter pursue the remedy provided in sections 8 and 9 below.

7. Dismissal. In consideration of the conditions of this Agreement the Parties hereby stipulate to the Court's entry of the Order of Dismissal Without Prejudice As Against ARB Defendants, in the form attached hereto as Exhibit 4 to this Agreement. The Order of Dismissal Without Prejudice shall be filed with the Court within 10 days of the effective date of this Agreement. The Parties agree that the Court shall retain jurisdiction to reopen the Action pursuant to the terms of this Agreement.

8. Right to Reopen Action. In the event Plaintiffs identify a breach of the Agreement by the ARB Defendants as specified in section 6, the Plaintiffs shall have the right to move the Court, upon notice to the ARB Defendants, for an order to reopen the Action and enter the terms of this Agreement as a judgment of the Court. The ARB Defendants stipulate that upon a finding by the Court that a breach has occurred, the Court shall enter the terms of this Agreement as a judgment of the Court and take such further action as may be appropriate to enforce the terms of the judgment or this Agreement. The ARB Defendants agree that they will not oppose the motion to reopen on the ground that the Court lacks jurisdiction. Any motion to reopen the Action shall be served and filed in accordance with the Local Rules of the United States District Court for the Central District of California.

9. Retention of Jurisdiction. Upon the reopening of the Action, the Parties agree that the Court shall retain jurisdiction of the Action only for the purpose of entering any further orders that may be needed to carry out or enforce this Agreement, and for consideration of an appropriate application for the costs of litigation including reasonable attorney and expert witness fees as provided in section 12 of this Agreement.

10. Release and Resolution of All Claims. This Agreement shall constitute a complete and final resolution and full release of all claims under the FCAA asserted by Plaintiffs in the Action against the ARB Defendants. However, Plaintiffs reserve their right to take any other actions to enforce the FCAA or other laws regarding matters relating to air quality in the South Coast Air Basin, except to the extent that such actions would be inconsistent with any obligations or remedies imposed under this Agreement. Plaintiffs' rights include but are not limited to any

actions to enforce obligations under the FCAA or other laws after the termination of obligations under this Agreement.

11. Effective Date. This Agreement shall be effective as of the date of the last signature at the end of this Agreement.

12. Attorneys' Fees.

(a) The ARB Defendants agree to pay Plaintiffs' costs of litigation in this Action, including reasonable attorney and expert witness fees, incurred in the Action in accordance with section 304(d) of the FCAA, as negotiated by the Parties in a separate agreement or as determined by the Court upon motion by the Plaintiffs under section 9 of this Agreement.

(b) The ARB Defendants agree to pay Plaintiffs' costs of litigation, including reasonable attorney and expert witness fees, incurred by the Plaintiffs in participating in any arbitration proceeding pursuant to section 3 above, as negotiated by the Parties in a separate agreement or as determined by the Court upon motion by the Plaintiffs under section 9 of this Settlement Agreement, except where the arbitrator finds (1) in favor of the ARB Defendants and (2) that Plaintiffs' invocation of the arbitration process was frivolous.

(c) The Plaintiffs shall be entitled to the costs of litigation, including reasonable attorneys and expert witness fees, incurred in the enforcement of this Agreement.

(d) In the event the Parties are unable to reach agreement on the payment of Plaintiffs' costs of litigation, including reasonable attorney and expert witness fees, under this section, the Parties hereby stipulate that the Action shall be reopened for the limited purpose of the Court's determination of an application by the Plaintiffs for an award of such costs and fees.

13. Notices and Reports. Whenever, under the terms of this Agreement, notice is required to be given or documents to be served on or to either Party or Parties, the communication shall be directed to the following persons:

For Plaintiff Natural Resources Defense Council, Inc.:

Gail Ruderman Feuer, Esq.
Natural Resources Defense Council, Inc.
6310 San Vicente Boulevard, Suite 250
Los Angeles, CA 90048
(213) 934-6900

For Plaintiff Coalition for Clean Air:

Tim Carmichael
Coalition for Clean Air
10780 Santa Monica Boulevard, Suite 210
Los Angeles, CA 90025
(310) 441-1544

For Plaintiff Communities for a Better Environment:

Roger Beers, Esq.,
Law Office of Roger Beers
1300 Clay Street, Ninth Floor
Oakland, CA 94612
(510) 873-6706

Anne Simon, Esq.,
Communities for a Better Environment
500 Howard Street, #506
San Francisco, CA 94105
(415) 243-8373

For the ARB Defendants:

Kathleen Walsh
General Counsel
California Air Resources Board
2020 L Street
P.O. 2815
Sacramento, CA 95812

Marc Melnick
Deputy Attorney General
California Attorney General's Office
1515 Clay Street
20th Floor
Oakland, CA 94612

Any Party may designate new or substitute persons to receive notice.

14. Applicable Law. The Parties intend and agree that this Agreement shall be subject to, governed by, and enforced and construed pursuant to the laws of the State of California.

15. Representation by Counsel. Each of the Parties represents and warrants that, in connection with the negotiation and execution of this Agreement, it has been represented by counsel of its own choosing, has executed this Agreement after receiving the advice of counsel, and its representatives have read and understand the provisions and terms of this Agreement and have had an adequate opportunity to conduct an independent investigation of all facts and circumstances with respect to all matters that are the subject of this Agreement.

16. Entire Agreement. Each of the Parties acknowledges that this Agreement and exhibits attached hereto contain all of the terms and conditions agreed upon by the Parties concerning the settlement of the Action and that this Agreement supersedes all prior negotiations, proposed agreements, and agreements concerning such settlement and release. This Agreement shall not be modified or changed except by a written instrument signed by all Parties to this Agreement or their successors in interest.

17. Successors. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective successors, assigns, trustees, and personal representatives. Any reference in this Agreement to the ARB Defendants shall include any successor to any of the parties identified heretofore as "the ARB Defendants" in this agreement. James W. Silva is no longer a member of the Board of ARB and therefore is not a party to this Agreement, but the Order of Dismissal Without Prejudice As Against ARB Defendants in section 7 shall apply to him without his signature to this Agreement.

18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

19. Termination of Agreement. This Settlement Agreement shall terminate upon the earlier of (1) ARB's fulfillment of all obligations under sections 1 and 2 of this Agreement or (2) February 1, 2006, unless there is a pending motion to reopen the Action pursuant to sections

8 and 9 of this Agreement and in that case the Agreement shall terminate upon the conclusion of any proceedings in connection with the reopening and the fulfillment of any remaining obligations ordered by the Court in such reopened Action.

20. Joint Drafting of Agreement. The Parties have jointly drafted this Agreement, and the Agreement shall not be interpreted against or in favor of any of the Parties that participated in drafting the Agreement.

21. Authorization to Execute Agreement. Each of the Parties represents and warrants that the person executing this Agreement on its behalf is a representative duly authorized to bind it and empowered to enter into this Agreement on its behalf. The Executive Officer of the ARB warrants that he has authority to execute this Agreement on behalf of all ARB Defendants. Execution of this Agreement by the Executive Officer shall bind the Air Resources Board and the ARB Defendants and successors thereto to the commitments set forth in this Agreement. It is understood that Plaintiffs' remedies under this Agreement may be pursued only against the ARB Defendants and their successors.

THE UNDERSIGNED ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT IN ITS ENTIRETY AND FULLY UNDERSTAND ITS TERMS.

Dated: January _____, 1999 COALITION FOR CLEAN AIR

BY: _____
Tim Carmichael
Executive Director

Dated: January _____, 1999 NATURAL RESOURCES DEFENSE COUNCIL, INC.

BY: _____
Gail Ruderman Feuer
Staff Attorney

Dated: January _____, 1999

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____
Leslie G. Fields
Executive Director

Dated: January _____, 1999

THE ARB DEFENDANTS

BY: _____
Michael Kenny
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: January _____, 1999

_____
Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: January _____, 1999

_____
Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: January _____, 1999

_____
Richard Drury
Attorney for Plaintiff Communities for a Better Environment

Dated: January 28, 1999

_____
Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the ARB Defendants

Dated: January 28, 1999

_____
Marc Melnick
Attorney for the ARB Defendants

EXHIBIT 1 TO SETTLEMENT AGREEMENT

ARB Progress in Meeting 1994 SIP Commitments – Mobile Sources
Based on Board Actions expected through Spring 1999
(Tons per day in South Coast 2010)

NEAR-TERM MEASURES and LONG-TERM MEASURES ADOPTED EARLY*	Emission Reductions in SIP Currency					
	1994 SIP Commitment		From Adopted or Proposed Measures		(Shortfall)	
Source Category and ARB Measure	ROG	NOx	ROG	NOx	ROG	NOx
Passenger Cars/Light Duty Trucks						
• M1: Car scrappage	14	11	0	0	(14)	(11)
• *M2: Advanced technology	10	15	7	25	(3)	10
Medium + Heavy Duty Gasoline Trucks						
• M3: Accelerated emission standard	3	33	3	27	0	(6)
• M8: Emission standard	0	3	0	3	0	0
Heavy Duty Diesel Trucks/Buses						
• M4: Cleaner engine incentives (incl Moyer Program)	0	1	0	1	0	0
• M5: 2004 standard, plus early reductions	5	56	5	51	0	(5)
• Off-Cycle Settlement (2002 implementation of std)	0	0	0	5	0	5
Off-Road Diesel Equipment						
• *M9: Emission standards	3	34	3	34	0	0
Off-Road Gasoline/LPG Equipment						
• M11: Emission standards	23	12	25	7	2	(5)
On-Road Motorcycles						
• New: Emission standards	0	0	0.3	0.2	0.3	0.2
Marine Pleasurecraft						
• New: Emission standards	0	0	4	0	4	0
Cleaner Burning Gasoline						
• New: Combustion chamber deposits	0	0	0	10	0	10
Small Off-Road Engines						
• Baseline: Changes to the emission standards	—	—	(2)	0	(2)	0
Total from Near-Term and Early Long-Term	**58**	**165**	**45**	**163**	**(13)**	**(2)**
REMAINING LONG-TERM MEASURES						
Heavy Duty Diesel Trucks/Buses						
• M17: Long-term additional emission reductions	1	10	0	0		
Long-Term Mobile Source "Black Box"	55	20	0	20		
Total from Remaining Long-Term	**56**	**30**	**0**	**20**		

1. Marine pleasurecraft and small off-road engines: The improved inventories show significantly higher emissions (and therefore greater reductions) from these categories, including deterioration emissions from small off-road engines which are controlled by the revised regulation. See off-baseline chart.

EXHIBIT 1 TO SETTLEMENT AGREEMENT

ARB Progress in Meeting 1994 SIP Commitments – Consumer Products
Based on Board Actions expected through Spring 1999
(Tons per day in South Coast 2010)

NEAR-TERM MEASURES Source Category and ARB Measure	Emission Reductions in SIP Currency					
	1994 SIP Commitment		From Adopted or Proposed Measures		(Shortfall)	
	ROG	NOx	ROG	NOx	ROG	NOx
Consumer Products • CP2: Mid-term measures	36	0	9	0	(27)	0
Aerosol Paints • CP3: Aerosol Paints Standards (Tier 1 and 2) as revised in November 1998	7	0	5	0	(2)	0
Total Near-Term	43	0	14	0	(29)	0
LONG-TERM MEASURE						
Consumer Products and Aerosol Paints • CP4: Long-term measures	46	0	long-term		[redacted]	

EXHIBIT 2 TO SETTLEMENT AGREEMENT

Measure	Emission Reductions (SCAB 2010 tpd)		Adoption Date	Implementation Date
	ROG	NOx		
Prevention of fuel spillage associated with gas cans	10-15	0	3rd /4th Quarter 1999	2001
Phase III vapor recovery	5-10	0	3rd /4th Quarter 1999	2004
Medium and Heavy Duty Gasoline Trucks	0	4	4th Quarter 1999	2004 (To be harmonized with USEPA implementation date)
Heavy Duty Diesel Truck/Buses 2.0 g/bhp-hr NOx standard for heavy-duty bus standard	0	0-3[1]	3rd Quarter 1999	Upon adoption
Clean diesel fuel for locomotives	0	0-1	2nd/3rd Quarter 1999	2000
Architectural Coatings*	0-1	0	4th Quarter 1999	2001-2003
Consumer products	5-12	0	1st/2nd Quarter 2000	2002-2004

* Suggested Control Measure, to be approved by ARB for adoption by individual air pollution control and air quality management districts.

[1] The use of zero as the lower end of the range in this chart means that the number may be less than one.

Near-Term Emission Reductions to Replace M-7
(Emission Reductions from 1994 SIP Baseline)

SIP Commitment and Replacement ARB Measures (Tons per day in the South Coast Air Basin)	1999		2002		2005	
	ROG	**NOx**	**ROG**	**NOx**	**ROG**	**NOx**
• **Near-Term M-7 Emission Reduction Needs (to supplement M-17 commitment)**	0	3	<1	6	0	3
• **Combustion Chamber Deposits**[1] *In August 1998, ARB adopted regulations that specify a maximum allowable cylinder head deposit level in gasoline fueled engines. Reduced build-up of deposits results in a long-term decrease in NOx emissions.*	0	(3)	0	(6)	0	(3)
• **Particulate Matter Standards for Heavy-Duty Diesel Vehicles**[2] *Emission controls used to meet particulate matter standards for new 1994 heavy-duty vehicles have the secondary benefit of reducing ROG emissions.*	0	0	(1)	0	0	0
Remaining Near-Term Emission Reduction Needs	0	0	0	0	0	0

1. ARB Staff Report. Proposed Amendments to the California Regulation Requiring Deposit Control Additives in Motor Vehicle Gasoline, August 7, 1998.
   In Appendix C of this staff report, staff estimates at least a five percent NOx emission reduction associated with lower combustion chamber deposits. Thus the three tons and six tons of NOx emission reductions shown for 1999 and 2002, respectively, do not reflect the full extent of the NOx emission reductions associated with this regulation.
2. ARB Staff Report. Proposed Amendments to Heavy-Duty Vehicle Regulations: 2004 Emission Standards..., March 6, 1998.
   On page 55 of this staff report, staff outlines an investigation of certification levels for 1994 through 1996 model year engines demonstrating that non-methane hydrocarbon levels are well below what is required. This investigation was supported by a separate study conducted by U.S. EPA that showed similar reductions for federally certified heavy-duty vehicles. The lower certification levels will result in 4.3 tons per day of ROG reductions in the South Coast Air Basin in 2002. Thus the one ton of ROG emission reductions shown for 2002 does not reflect the full extent of the ROG emission reductions.

EXHIBIT 4 TO SETTLEMENT AGREEMENT

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

COALITION FOR CLEAN AIR, INC., et al., Plaintiffs, vs. SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, et al., Defendants.	Case No.: 97-6916 HLH (SHx) ORDER FOR DISMISSAL WITHOUT PREJUDICE AS AGAINST CARB DEFENDANTS

Upon stipulation of parties, and for good cause appearing therefor, now therefore,

IT IS HEREBY ORDERED that the above-entitled action is hereby dismissed without prejudice as against Defendants Michael P. Kenny, Executive Officer of the California Air Resources Board ("CARB"), and John D. Dunlap III, Joseph C. Calhoun, Mark J. DeSaulnier, Lynne T. Edgerton, William F. Friedman, M.D., Jack C. Parnell, Barbara Patrick, Sally Rakow, Barbara Riordan, Ron Roberts and James W. Silva, Members of the Board of CARB (collectively "CARB Defendants").

IT IS FURTHER ORDERED that the Court retains jurisdiction to vacate this Order of Dismissal and to order this case reopened for purposes of enforcing the terms of the Settlement Agreement previously lodged with the Court between the CARB Defendants and the Natural Resources Defense Council, Inc., Coalition for Clean Air, and Communities for a Better Environment (collectively, "Plaintiffs"), upon the motion of any party.

The Clerk is directed to enter this Order for Dismissal forthwith.

Dated: _____, 1999

_____
United States District Judge

EXHIBIT 5

SIP Measures and New Measures in Settlement Agreement to be Implemented from 1999 to 2006

(Emission Reductions in Tons per Day for South Coast Air Basin in 2010)

Beginning Implementation Date	Baseline 2010 Emission Reductions in SIP Currency		ARB Measure
	ROG	NOx	
1999	0	11	M4 (heavy-duty diesel vehicle incentives), combustion chamber deposits
2000	0	1	Clean fuel for locomotives
2001	70*	45	Settlement measures, M9 (off-road diesel equipment), M11 (off-road gas & LPG equipment), CP2 (consumer products mid-term measures), marine pleasurecraft
2002	6.5	56	M5 (heavy-duty diesel vehicles), Aerosol paints Tier II
2003	5	0	Settlement measures
2004	19	60	Settlement measures, M2 (LEV II), M8 (heavy-duty gas vehicles), M17 (in-use compliance for heavy-duty diesel vehicles), on-road motorcycles
2005	10	0	Settlement measures
2006	16	0	Settlement measures

*Includes 15 tons per day of off-baseline ROG emission reductions from fuel can spillage measure

NOTES:

- Table does not reflect the significant benefits of baseline measures (adopted as of November 1994) like the first Low-Emission Vehicle program, 4.0 g NOx truck standards, and cleaner fuels.

- Table shows the 2010 benefits of SIP and new measures only once – in the first year of implementation – even though the benefits phase-in and increase over time with fleet turnover.

12/9/99

FIRST AMENDMENT TO

SETTLEMENT AGREEMENT

The Natural Resources Defense Council, Inc. ("NRDC"), Coalition for Clean Air ("CCA"), and Communities for a Better Environment ("CBE") (collectively, "Plaintiffs") and Michael P. Kenny, Executive Officer of the California Air Resources Board, Alan C. Lloyd, Ph.D., Joseph C. Calhoun, Dorene D'Adamo, Mark J. DeSaulnier, C. Hugh Friedman, William F. Friedman, M.D., Mathew R. McKinnon, Barbara Patrick, Barbara Riordan, and Ron Roberts, Members of the Air Resources Board, in their official capacities (collectively "the Air Resources Board" or "ARB") hereby amend the Settlement Agreement ("Plaintiffs-ARB Settlement Agreement") entered into between them in January, 1999. This amendment will be referred to hereinafter as the "First Amendment to Settlement Agreement." Plaintiffs and the Air Resources Board are hereinafter referred to individually as "Party" or collectively as "Parties."

This First Amendment to Settlement Agreement is made for two reasons:

(1) to facilitate the contemporaneous settlement between the Plaintiffs and the South Coast Air Quality Management District, and its officers and members of its Governing Board (collectively, "SCAQMD"), of claims alleged by Plaintiffs against SCAQMD in Action No. 97-6916 in the United States District Court for the Central District of California. The settlement between Plaintiffs and SCAQMD is set forth in a written settlement agreement between those parties and is referred to herein as the "Plaintiffs-SCAQMD Agreement."

(2) to incorporate a revised adoption and implementation schedule for Exhibits 2 and 5 of the Plaintiffs-ARB Settlement Agreement. The revised schedule was proposed by the ARB in an October 8, 1999, letter to Plaintiffs memorializing the information provided by the ARB to Plaintiffs in preparation for and during the first Semi-Annual Update Meeting, in accordance with section 4 of the Plaintiffs-ARB Settlement Agreement. This letter explains why revisions to Exhibits 2 and 5 are necessary.

WHEREFORE, the Parties hereto agree as follows:

1. If SCAQMD implements any control measure(s) referred to in Section 1(d) of the Plaintiffs-SCAQMD Agreement later than 2006 or delays any emission reductions under Sections 2(b) or 2(c) of the Plaintiffs-SCAQMD Agreement beyond 2006, ARB will provide up to 21 tons per day of VOC or NOx emission reductions (in 1997 currency) from implementation of State measures, in excess of its obligations under the Plaintiffs-ARB Agreement and the 1994 SIP, and not already assumed or accounted for in SCAQMD's 1997 Air Quality Management Plan and 1999 Amendment thereto, to cover the shortfall in VOC emissions during the extension period. The Parties agree that the ARB's obligations under this section 1 are time-limited obligations that cover only the period from 2006 through 2009. Accordingly, nothing in this section 1 shall relieve SCAQMD from its obligation by 2010 to fully achieve the emission reductions specified in Sections 1(a), 2(b) or 2(c) of the Plaintiffs-SCAQMD Agreement, and in 2010 all obligations of the ARB to provide emission reductions under this section 1 shall cease.

2. The Plaintiffs-ARB Settlement Agreement as amended herein remains in full force and effect, and the additional obligation of ARB established by Section 1 above shall be enforced pursuant to and otherwise subject to the terms of the Plaintiffs-ARB Agreement.

3. Exhibit 2 and Exhibit 5 of the Plaintiffs-ARB Settlement Agreement are hereby deleted, and are replaced by modified versions of Exhibit 2 and Exhibit 5 that are appended as "Attachment A" and "Attachment B" to this First Amendment to Settlement Agreement.

4. Each of the Parties represents and warrants that the person executing this First Amendment to Settlement Agreement on its behalf is a representative duly authorized to bind it and empowered to enter into this First Amendment to Settlement Agreement on its behalf. The Executive Officer of the ARB warrants that he has authority to execute this First Amendment to Settlement Agreement on behalf of the Air Resources Board. Execution of this Agreement by the Executive Officer shall bind the Air Resources Board and successors thereto to the commitments set forth in this Agreement. It is understood that Plaintiffs' remedies under this First Amendment to Settlement Agreement may be pursued only against the Air Resources Board and their successors.

THE UNDERSIGNED ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT IN ITS ENTIRETY AND FULLY UNDERSTAND ITS TERMS.

Dated: December 10, 1999

COALITION FOR CLEAN AIR

BY: _____

Tim Carmichael
Executive Director

Dated: December 9, 1999

NATURAL RESOURCES DEFENSE COUNCIL, INC.

BY: _____

Gail Ruderman Feuer
Staff Attorney

Dated: December _____, 1999

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____

Carlos Porras
Executive Director

Dated: December _____, 1999

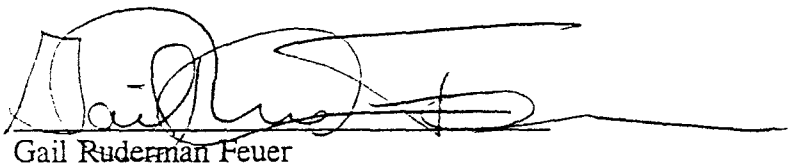
THE ARB DEFENDANTS

BY: _____

Michael Kenny
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: December 9, 1999

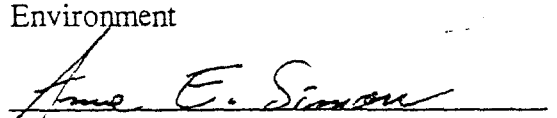


Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: December 9, 1999

Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: December 9, 1999



Anne Simon
Attorney for Plaintiff Communities for a Better Environment

Dated: December _____, 1999

_____

Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the ARB Defendants

Dated: December 8, 1999

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____

Carlos Porras
Executive Director

Dated: December ____, 1999

THE ARB DEFENDANTS

BY: _____

Michael Kenny
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: December ____, 1999

_____

Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: December ____, 1999

_____

Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: December ____, 1999

_____

Anne Simon
Attorney for Plaintiff Communities for a Better Environment

Dated: December ____, 1999

_____

Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the ARB Defendants

Dated: December _____, 1999

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____

Carlos Porras
Executive Director

Dated: December 9, 1999

THE AIR RESOURCES BOARD

BY: _____

Michael Kenny
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: December _____, 1999

_____

Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: December _____, 1999

_____

Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: December _____, 1999

_____

Anne Simon
Attorney for Plaintiff Communities for a Better Environment

Dated: December 9, 1999

Kathleen Walsh

Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the Air Resources Board

ATTACHMENT A

Revised
EXHIBIT 2 TO SETTLEMENT AGREEMENT

Measure	Emission Reductions		Adoption Date	Implementation Date
	ROG	NOx		
Prevention of fuel spillage associated with gas cans	10-15	0	September 1999	2001
Phase III vapor recovery	5-10	0	March 2000	2004
Medium and heavy-duty gasoline trucks	0	4	September – December 2000 (Dependent on U.S. EPA action)	2004 (To be harmonized with U.S. EPA implementation date)
Urban transit bus standards	0	0-3[1]	January 2000	Phase-in of progressively stricter standards from adoption through 2012
Clean diesel fuel for locomotives	0	0-1	2nd Quarter 2000	2001
Architectural coatings*	0-1	0	April 2000	2001-2003
Consumer products	5-12	0	October 1999	2002-2004

* Suggested Control Measure, to be approved by ARB for adoption by individual air pollution control and air quality management districts.

[1] The use of zero as the lower end of the range in this chart means that the number may be less than one.

ATTACHMENT B

Revised
EXHIBIT 5

SIP Measures and New Measures in Settlement Agreement to be Implemented from 1999 to 2006

(Emission Reductions in Tons per Day for South Coast Air Basin in 2010)

Beginning Implementation Date	Baseline 2010 Emission Reductions in SIP Currency		ARB Measure
	ROG	NOx	
1999	0	11	M4 (heavy-duty diesel vehicle incentives), combustion chamber deposits
2001	72*	44	Settlement measures, M9 (off-road diesel equipment), M11 (off-road gas & LPG equipment), CP2 (consumer products mid-term measures I), marine pleasurecraft
2002	6.5	56	M5 (heavy-duty diesel vehicles), Aerosol paints Tier II
2003	5	0	Settlement measures
2004	19	60	Settlement measures, M2 (LEV II), M8 (heavy-duty gas vehicles), M17 (in-use compliance for heavy-duty diesel vehicles), on-road motorcycles
2005	10	0	Settlement measures
2006	16	0	Settlement measures

*Includes 15 tons per day of off-baseline ROG emission reductions from fuel can spillage measure

NOTES:

- Table does not reflect the significant benefits of baseline measures (adopted as of November 1994) like the first Low-Emission Vehicle program, 4.0 g NOx truck standards, and cleaner fuels.

- Table shows the 2010 benefits of SIP and new measures only once -- in the first year of implementation – even though the benefits phase-in and increase over time with fleet turnover.

June 25, 2003 Final

SECOND AMENDMENT TO

SETTLEMENT AGREEMENT

The Natural Resources Defense Council, Inc. ("NRDC"), Coalition for Clean Air ("CCA"), and Communities for a Better Environment ("CBE") (collectively, "Plaintiffs") and Catherine Witherspoon, Executive Officer of the California Air Resources Board, Alan C. Lloyd, Ph.D., Joseph C. Calhoun, Dorene D'Adamo, Mark J. DeSaulnier, C. Hugh Friedman, William F. Friedman, M.D., Mathew R. McKinnon, Barbara Patrick, Barbara Riordan, William A. Burke, and Ron Roberts, Members of the Air Resources Board, in their official capacities (collectively "the Air Resources Board" or "ARB") hereby amend the Settlement Agreement ("Plaintiffs-ARB Settlement Agreement") entered into between them in January, 1999. This amendment, consisting of eight pages, will be referred to hereinafter as the "Second Amendment to Settlement Agreement." Plaintiffs and the Air Resources Board are hereinafter referred to individually as "Party" or collectively as "Parties."

This Second Amendment to Settlement Agreement is made for the following reasons. Section 2(a) of the Plaintiffs-ARB Settlement Agreement requires, among other things, that by December 31, 2001, the ARB shall adopt and implement measures that will achieve emission reductions of 16 tons per day ("tpd") of reactive organic gases (ROG) in the South Coast Air Basin (SCAB) in 2010. Section 3(a) of the Plaintiffs-ARB Settlement Agreement further provides in part that if the ARB staff concludes it is technologically infeasible to achieve some or all of these 16 tpd of ROG emission reductions as set forth in section 2(a), then the ARB staff will, no later than July 1, 2001, provide written notice to Plaintiffs of this conclusion. Pursuant

to section 3(a) of the Plaintiffs-ARB Settlement Agreement, on June 29, 2001, ARB Executive Officer Michael P. Kenny sent to Plaintiffs a letter providing notice that staff had concluded it is technologically infeasible to adopt measures to achieve all of the required 16 tpd in ROG reductions by December 31, 2001. Since that time the Parties have engaged in discussions over a substitute schedule for rule adoption and implementation. ARB has proposed a new adoption and implementation schedule that it believes is technologically feasible to achieve. While Plaintiffs by this Second Amendment do not express a position on whether it was technologically infeasible to adopt measures to achieve all of the required 16 tpd in ROG reductions by December 31, 2001, they accept ARB's representations that the substitute schedule in this Second Amendment is now feasible, believe that this amendment to the Plaintiffs-ARB Settlement Agreement will have significant emissions benefits from new measures to be proposed for adoption, and is therefore in the interest of the public.

The Parties have met and conferred, and desire to enter into this Second Amendment to Settlement Agreement in order to resolve the remaining obligations of ARB under section 2 of the Plaintiffs-ARB Settlement Agreement. Of the 16 tpd of ROG required to be achieved from measures adopted by December 31, 2001, the ARB has achieved 5 tpd of ROG from measures already adopted, but has not yet achieved the remaining 11 tpd of ROG. With the exception of these 11 tpd of ROG, the Parties acknowledge that the ARB has fulfilled the obligations specified in section 2 of the Plaintiffs-ARB Settlement Agreement to adopt measures that will achieve 12 tpd of ROG from measures adopted by December 31, 1999, and 14 tpd of ROG and 2 tons of NOx from measures adopted by December 31, 2000.

This Second Amendment shall replace sections 1(a), 2(a) through (e) and 3(a) of the Plaintiffs-ARB Settlement Agreement, as modified by the First Amendment to Settlement

Agreement. The Plaintiffs-ARB Settlement Agreement as amended herein, and the First Amendment to Settlement Agreement entered into in December 1999, in all other respects shall remain in full force and effect, and the additional obligations of ARB established by Sections 1, 2, and 4 below shall be enforced pursuant to and otherwise subject to the terms of the Plaintiffs-ARB Settlement Agreement and the First Amendment to Settlement Agreement

WHEREFORE, the Parties hereto agree as follows:

1. The ARB staff shall submit to the Board and propose for adoption the control measures set forth in Attachment A to this Second Amendment to Settlement Agreement, with implementation proposed for such control measures on or before the implementation dates set forth in Attachment A. The ARB Board shall take action thereon on or before the adoption dates set forth in Attachment A. Such action by the Board may include any action within its discretion. Once adopted, each control measure adopted pursuant to this Second Amendment to Settlement Agreement shall be implemented by the ARB Defendants on the schedule in the adopted measure.

2. (a) Except as provided in section 3 below, ARB shall adopt and implement measures that will achieve at least the following aggregate emission reductions for ROG in tons per day ("tpd") in the SCAB in 2010, as set forth in the following schedule. For purposes of this schedule, "on-baseline" ROG refers to reducing only those ROG emissions that are included in the 1994 State Implementation Plan (SIP) emission inventory. "Total" ROG refers to reducing both on-baseline and off-baseline ROG emissions (i.e., those ROG emissions that were not included in the 1994 SIP emission inventory, but have since been identified and quantified).

Minimum Commitments for Total Emission Reductions

(South Coast Air Basin 2010 (tons per day)

ADOPTION DATE	On-baseline ROG	Total ROG[1]
December 31, 2003	1	6
December 31, 2004	2	2
December 31, 2005	7	8
December 31, 2006	1	1
Total	11	17

IMPLEMENTATION DATE*	On-baseline ROG	Total ROG	NOx
January 1, 2003	5	5	-
January 1, 2004	10	10	2
January 1, 2005	10	10	-
January 1, 2006	8	13	-
January 1, 2007	2	3	
January 1, 2008	6	6	
Total	41	47	2

*This table only includes remaining adoption commitments and future implementation dates. The January 1999 Settlement Agreement includes a January 1, 2001 implementation target of 1 tpd on-baseline ROG and 16 tpd total ROG which has been met.

(b) "On-baseline ROG" emission reductions will count toward the minimum commitments in this section 2 only to the extent that they reduce emissions in the baseline inventory in the 1994 SIP.

(c) Emission reductions in excess of the minimum emissions reductions commitment for a given year may be applied to the emissions reduction commitment of subsequent years.

(d) ARB may meet the obligation set forth in this section 2 by adopting one or more of the control measures listed in Attachment A, or by adopting one or more alternative control

measures, so long as the aggregate emission reductions therefrom comply with the schedule set forth in this section 2.

(e) The Parties agree that the minimum commitments for emission reductions were determined by comparing reductions of 1994 SIP inventory emissions resulting from control measures adopted or implemented by ARB to date since adoption of the 1994 SIP to the emission reduction commitments contained in the 1994 SIP. The Parties may, by mutual agreement, adjust the minimum commitments for total emission reductions set forth in this section 2 to reflect additional emission reductions achieved by control measures previously adopted or implemented by the ARB that are not reflected in Attachment A and that are not otherwise required by or assumed in the 1994 SIP or for any other purpose.

3. Arbitration

(a) In the event the ARB staff concludes it is technologically infeasible to achieve some or all of the emission reductions set forth in section 2 of this Second Amendment to Settlement Agreement as a minimum commitment for any of the specified adoption dates, either by adoption of one or more control measures on or before the specified adoption dates or, alternatively, by implementation of one or more control measures on or before the specified implementation dates, ARB staff will, no later than six months prior to the specified adoption date, provide written notice to the Plaintiffs of this conclusion including the analysis and documentation upon which staff relies for this conclusion. The notice shall also include a statement of ARB staff's conclusion as to whether the specified emission reductions will remain technologically infeasible to achieve by the year 2010, or, alternatively, whether there is an earlier date when achievement of the specified emission reductions will be technologically feasible and, if so, what that date is. For purposes of this Arbitration provision of the Second Amendment to Settlement Agreement,

Sections (3)(b) through (3)(d) of the Plaintiffs-ARB Settlement Agreement are hereby incorporated by reference, as though fully set forth herein, provided however that where the term "December 31, 2001" appears in the Plaintiffs-ARB Settlement Agreement, it shall be replaced by the term "the specified adoption date" in this Arbitration provision of this Second Amendment to Settlement Agreement, and where the term "for 2001" appears, it shall be replaced by the term "for the specified year."

This Second Amendment shall add the following provisions to the Plaintiffs-ARB Settlement Agreement:

4. The ARB staff shall take the following actions:

(a) Consumer products labeling program

ARB staff will evaluate the feasibility of developing an environmental labeling program that would address the air quality impacts of consumer products. As currently envisioned, such a program would focus on products that are "ultra-low emitting" and "zero emitting" for both volatile organic compounds and toxic air contaminants. ARB staff will complete the evaluation by January 2004. If the program is determined to be feasible, staff will develop a proposal and present it to the Board by December 31, 2004, with proposed implementation within one year after Board approval.

In addition, ARB staff will evaluate the feasibility of establishing a multi-media environmental labeling program for consumer products in cooperation with other Cal/EPA Boards and Departments. If the multi-media program is feasible and supported by other Cal/EPA

Boards and Departments, the program will be proposed for adoption within a timeframe established jointly by all participating Boards and Departments.

(b) Light-duty motor vehicle retrofit program

ARB staff is conducting a Pilot Program to evaluate the potential for reducing in-use exhaust and evaporative ROG and NOx emissions from light-duty vehicles. The Program would achieve emission reductions by (1) repairing vehicles that pass Smog Check but exceed their original certification standards, or (2) for vehicles that fail Smog Check, repairing them beyond the point necessary to pass the Smog Check inspection. The Pilot Program will consist of extensive vehicle testing during which ARB staff will evaluate the benefits associated with replacing or repairing emission-related parts/problems including: catalysts, carbon canisters and corresponding fuel lines, fuel leaks, and oxygen sensors. ARB staff will then determine which technologies provide maximum benefits and in what situations emission reductions can be achieved.

The Pilot Program started in 2002, and testing will be completed by December 31, 2003. By December 31, 2004, ARB staff will complete an evaluation of the information collected during the Pilot program to determine the emissions benefits and estimated costs of implementing one or more light-duty vehicle retrofit (repair) programs, including the incorporation of such program(s) into the current Smog Check program. If, based on this evaluation, staff determines that a repair program(s) is an effective means of reducing emissions from in-use light-duty vehicles, staff will submit a proposed rule to implement a light-duty vehicle retrofit (repair) program to the Board in 2005, and the Board shall consider and take action thereon in 2005.

In determining whether a retrofit (repair) program(s) is effective, the program shall be considered effective if:

- repairs/retrofits made with available parts are durable and effective at reducing emissions;
- repairs/retrofits are compatible with vehicles' existing emission control systems and do not negatively affect vehicle operation;
- the population of repairable vehicles and the anticipated capture rate are sufficient to ensure a successful program; and
- the program is cost-effective. In evaluating the cost-effectiveness, ARB staff will consider the fact that the costs of the program may be borne directly by individual consumers. ARB staff will also consider the cost of repairs relative to the value of the vehicle.

5. Each of the Parties represents and warrants that the person executing this Second Amendment to Settlement Agreement on its behalf is a representative duly authorized to bind it and empowered to enter into this Second Amendment to Settlement Agreement on its behalf. The Executive Officer of the ARB warrants that he has authority to execute this Second Amendment to Settlement Agreement on behalf of the Air Resources Board. Execution of this Agreement by the Executive Officer shall bind the Air Resources Board and successors thereto to the commitments set forth in this Agreement. It is understood that Plaintiffs' remedies under this Second Amendment to Settlement Agreement may be pursued only against the Air Resources Board and their successors.

THE UNDERSIGNED ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT IN ITS ENTIRETY AND FULLY UNDERSTAND ITS TERMS.

Dated: July _____, 2003

COALITION FOR CLEAN AIR

BY: _____
Tim Carmichael
Executive Director

Dated: July _____, 2003

NATURAL RESOURCES DEFENSE COUNCIL, INC.

BY: _____
Gail Ruderman Feuer
Staff Attorney

Dated: July _____, 2003

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____
Carlos Porras
Executive Director

Dated: July 1, 2003

THE AIR RESOURCES BOARD

BY: _____
Catherine Witherspoon
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: July _____, 2003

_____
Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: July _____, 2003

_____
Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: July _____, 2003

_____
Scott Kuhn
Attorney for Plaintiff Communities for a Better Environment

Dated: July 1, 2003

_____
Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the Air Resources Board

Dated: July 1, 2003

COALITION FOR CLEAN AIR

BY: _____

Tim Carmichael
Executive Director

Dated: July 1, 2003

NATURAL RESOURCES DEFENSE COUNCIL, INC.

BY: _____

Gail Ruderman Feuer
Staff Attorney

Dated: July ____, 2003

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____

Carlos Porras
Executive Director

Dated: July ____, 2003

THE AIR RESOURCES BOARD

BY: _____

Catherine Witherspoon
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: July 1, 2003

_____

Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: July ____, 2003

_____

Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: July ____, 2003

_____

Scott Kuhn
Attorney for Plaintiff Communities for a Better Environment

Dated: July ____, 2003

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Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the Air Resources Board

Dated: July ____, 2003

COALITION FOR CLEAN AIR

BY: _____
Tim Carmichael
Executive Director

Dated: July ____, 2003

NATURAL RESOURCES DEFENSE COUNCIL, INC.

BY: _____
Gail Ruderman Feuer
Staff Attorney

Dated: July 1, 2003

COMMUNITIES FOR A BETTER ENVIRONMENT

BY: _____
Carlos Porras
Executive Director

Dated: July ____, 2003

THE AIR RESOURCES BOARD

BY: _____
Catherine Witherspoon
Executive Officer, Air Resources Board

APPROVED AS TO FORM:

Dated: July ____, 2003

_____
Gail Ruderman Feuer
Attorney for Plaintiffs Natural Resources Defense Council, Inc. and Coalition for Clean Air

Dated: July ____, 2003

_____
Roger Beers
Attorney for Plaintiff Communities for a Better Environment

Dated: July 1, 2003

_____
Scott Kuhn
Attorney for Plaintiff Communities for a Better Environment

Dated: July ____, 2003

_____
Kathleen Walsh
General Counsel, Air Resources Board, and Attorney for the Air Resources Board

PROPOSED AMENDMENT TO SIP LAWSUIT SETTLEMENT AGREEMENTS
ATTACHMENT A – Measures to be considered by ARB

Adoption Date	Measure	Implementation Period	Emission Reductions South Coast Air Basin 2010			
			On-Baseline ROG[1] (1994 SIP)	ROG[1] (current inventory)	NOx[1] (current inventory)	PM[1] (current inventory)
By Dec 31, 2003	Evaporative and exhaust emission standards for small off-road engines	2006	0.5	5-6	0.8-2	0
	Particulate/ROG retrofits: trash trucks	2004-2010	<0.5	<0.5	0	<0.5
	fuel tanker trucks	2005-2010	<0.5	<0.5	0	<0.5
	TRUs	2005-2010	<0.5	<0.5	NQ	<0.5
	stationary engines	2005-2010	<1	<1	0	<1
	Enhanced vapor recovery for aboveground tanks	2007	<0.1	<0.1	0	0
	Heavy-duty gas truck standards (align w/ U.S. EPA)	2008	<0.5	<0.5	0-0.5	NQ
	Low sulfur diesel fuel for on- and off-road engines	2006	Enables retrofits		Enables retrofits	
	On-board diagnostics for diesel trucks	2007			NQ	NQ
	Idling controls for new diesel trucks	2007			NQ	NQ
	Complete light-duty pilot program testing	-	-	-	-	-
By Jun 30, 2004	Next phase of consumer products standards	2006	2	2	0	0
By Dec 31, 2004	Particulate/ROG retrofits: on-road public fleets	2005-2010	<0.5	<0.5	0	<0.1
	off-road public fleets	2005-2010	<0.5	<0.5	0	<0.5
	Tier IV emission standards for off-road diesel engines	2008-2014	NQ	NQ	NQ	NQ
	Gasoline dispenser hose permeation standards	2007	0	0-1	0	0
By Dec 31, 2005	***Additional standards for consumer products***	***2008***	***4-8***	***4-8***	***0***	***0***
	Retrofits for existing off-road gasoline equipment	***2006-2012***	***1-4***	***0.5-1.4***	***1.5-3.5***	***NQ***
	Vapor recovery for cargo tankers	2007	0	2	0	0
	Particulate/ROG retrofits: on-road private fleets	2007-2010	1	1	0	0-1
	Additional emission standards for large gasoline/ LPG off-road engines (align w/ U.S. EPA)	2007	0	0	0.8	0
By Dec 31, 2006	Particulate/ROG retrofits: off-road private fleets	2007- 2010	1	1	0	1
TOTAL ROG ADOPTION COMMITMENT			**11**	**17**		

[1] This table lists the measures the ARB intends to pursue to achieve the emission reduction commitments specified in the Second Amendment to Settlement Agreement. The potential emission reductions from *each* measure are shown for informational purposes only. The ARB does not commit to achieve any specific quantity of emission reductions from any particular measure.

Bold and italicized measures have been added since November 2002 version of proposal.