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 9 Natural Resources Defense Council, Inc.

10  
 11 UNITED STATES DISTRICT COURT  
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 CALIFORNIA DUMP TRUCK OWNERS  
 14 ASSOCIATION,

15 Plaintiff,

16 v.

17 MARY D. NICHOLS, Chairperson of the  
 18 California Air Resources Board; and JAMES  
 19 GOLDSTENE, Executive Officer of the  
 California Air Resources Board,

20 Defendants,

22 NATURAL RESOURCES DEFENSE  
 23 COUNCIL, INC.,

24 Defendant-Intervenor.  
 25  
 26  
 27  
 28

Case No. 2:11-CV-00384-MCE-GGH

DEFENDANT-INTERVENOR'S FIRST SET  
 OF REQUESTS FOR ADMISSION TO  
 PLAINTIFF CALIFORNIA DUMP TRUCK  
 OWNERS ASSOCIATION

1 PROPOUNDING PARTY: Defendant-Intervenor the Natural Resources Defense  
2 Council, Inc.

3 RESPONDING PARTY: Plaintiff California Dump Truck Owners Association

4 SET NUMBER: One

5 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendant-Intervenor  
6 hereby requests that Plaintiff California Dump Truck Owners Association admit or deny, under  
7 oath and affirmation, each of the requests described below no later than September 13, 2011.

8 **INSTRUCTIONS AND DEFINITIONS**

9 1. The term "CDTOA" means Plaintiff California Dump Truck Owners  
10 Association."

11 2. The term "MOTOR CARRIER" is used below as it is defined in 49 U.S.C.  
12 §13102 and used in 49 U.S.C. §14501(c).

13 3. The term "TRUCK AND BUS REGULATION" means the "Regulation to  
14 Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants  
15 from In-Use Heavy-Duty Diesel-Fueled Vehicles." Cal. Code Regs. tit. 13 § 2025.

16 Unless otherwise indicated, wherever used herein, the singular shall include the plural  
17 and the plural shall include the singular.

18 **REQUESTS FOR ADMISSION**

19 **ADMISSION REQUEST NO. 1.**

20 Admit that the economic conditions from 2008 to the present have adversely impacted  
21 CDTOA motor carrier members' prices.

22 **ADMISSION REQUEST NO. 2.**

23 Admit that economic conditions from 2008 to the present have adversely impacted  
24 CDTOA motor carrier members' ability to raise prices.

25 **ADMISSION REQUEST NO. 3.**

26 Admit that the economic conditions from 2008 to the present have adversely impacted  
27 CDTOA motor carrier members' routes.

1 **ADMISSION REQUEST NO. 4.**

2 Admit that the economic conditions from 2008 to the present have adversely impacted  
3 CDTOA motor carrier members' services.

4 **ADMISSION REQUEST NO. 5.**

5 Admit that CDTOA motor carrier members utilized government funds, subsidies or grant  
6 programs to help defray the costs of complying with the Truck and Bus Regulation.

7 **ADMISSION REQUEST NO. 6.**

8 Admit that the costs of complying with the Truck and Bus Regulation are not the only  
9 costs that affect CDTOA motor carrier members' profits.

10 **ADMISSION REQUEST NO. 7.**

11 Admit that an out of state market exists for trucks owned by CDTOA motor carrier  
12 members.

13 **ADMISSION REQUEST NO. 8.**

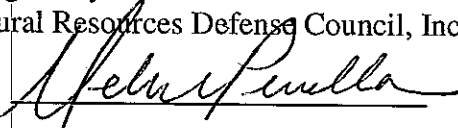
14 Admit that the trucks owned and/or operated by CDTOA motor carrier members emit  
15 diesel pollution.

16 **ADMISSION REQUEST NO. 9.**

17 Admit that trucks owned and/or operated by CDTOA motor carrier members will emit  
18 less diesel pollution if such trucks comply with the Truck and Bus Regulation.

19  
20 Dated: August 11, 2011

21 David Pettit  
22 Melissa Lin Perrella  
23 Morgan Wyenn  
24 Natural Resources Defense Council, Inc.

25 By:   
26 Attorneys for Defendant-Intervenor  
27 Natural Resources Defense Council, Inc.  
28

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over  
3 the age of 18 and not a party to the within action. My business address is: 1314 2nd Street, Santa  
4 Monica, CA 90401.

5 On August 11, 2011, I served the foregoing documents described:

6 **DEFENDANT-INTERVENOR'S FIRST SET OF REQUESTS FOR ADMISSION TO**  
7 **PLAINTIFF CALIFORNIA DUMP TRUCK OWNERS ASSOCIATION**

8 on the interested parties by causing such envelope to be delivered by first class mail to the office  
9 of the addressees as indicated below:

10  
11 Patrick James Whalen  
12 Law Offices of Brooks Ellison  
13 1725 Capitol Avenue  
14 Sacramento, CA 95811  
15 Attorney for Plaintiff California Dump Truck Owners Association

16  
17 Nicholas Stern  
18 Attorney General's Office of the State of California  
19 P.O. Box 944255  
20 1300 I Street  
21 Suite 125  
22 Sacramento, CA 94244-2550  
23 Attorney for Defendant California Air Resources Board

24 I declare under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct.

26 Executed on August 11, 2011 at Santa Monica, California.

27 /s/ Lizzeth Henao

28 Lizzeth Henao