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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

CALIFORNIA DUMP TRUCK OWNERS ASSOCIATION, Plaintiff, **v.** **MARY D. NICHOLS, Chairperson of the California Air Resources Board, and JAMES GOLDSTENE, Executive Officer of the California Air Resources Board,** Defendant, **NATURAL RESOURCES DEFENSE COUNCIL, INC.,** Defendant-Intervenor.	2:11-CV-00384-MCE-GGH **DECLARATION OF TODD SAX IN SUPPORT OF DEFENDANTS MARY NICHOLS AND JAMES GOLDSTENE'S OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION** Date: December 15, 2011 Time: 2:00 p.m. Courtroom: 7 Judge The Honorable Morrison C. England, Jr. Trial Date June 3, 2013 Action Filed: February 11,2011

I, Todd Sax, declare:

1. The facts stated in this declaration are true of my own personal knowledge, and if called as a witness in this matter I could and would testify competently thereto.

2. The opinions stated in this declaration are based on my education, experience, and knowledge of air pollution health impacts, health risk assessments and emissions control.

3. I received my Bachelor of Arts degree in the Environment, Economics, and Politics at Claremont McKenna College in Claremont, California in 1993. I received my Masters of Science in Environmental Health Science at the University of California at Los Angeles in 1995. I received my Doctorate in Environmental Science and Engineering from the University of California at Los Angeles in 2004.

4. I am the Chief of the Mobile Source Analysis Branch, Planning and Technical Support Division of the California Air Resources Board (the Board). I have held this position since July 2010. Overall, I have worked in the field of air pollution doing inventory analysis for over 15 years. I worked as Manager of the Regulatory Support Section in the Mobile Source Analysis Branch of the Planning and Technical Support Division from February 2006- July 2010. I worked as an Air Pollution Specialist in the Emissions Inventory Systems Section of the Planning and Technical Support Division from July 2005 to February 2006. I worked as an Air Pollution Specialist in the Environmental Justice Section of the Planning and Technical Support Division from June 2000 to May 2004. Prior to coming to the Board, I worked at TRW, Inc. as an Environmental Engineer from 1994 to June 2000. From May 2004 to July 2005 I worked at SECOR International Inc. as a Senior Air Quality Scientist and California Air Quality Manager.

5. While working at the Board I have managed the development of a diverse array of mobile source emissions inventories on statewide, regional, and local scales. These inventories have focused on trucks, buses, construction equipment, airport ground support equipment, industrial equipment, cargo handling equipment, transportation refrigeration units, commercial harborcraft, ocean-going vessels, off-highway motorcycles, off-highway recreational boats, and other sources. I developed or supervised development of emissions inventories across communities including Wilmington in Los Angeles; and Barrio Logan in San Diego; West Oakland in the Bay Area, and across mobile source categories for the ARB Goods Movement Emissions Reduction Plan.

6. In my present capacity as Chief of the Mobile Source Analysis Branch, I directed my staff and was the lead in updating the on-road mobile source emissions inventory that was presented to the Board in November 2010. The updated inventory was used to develop the amendments to the "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles (Truck and Bus regulation).

7. I was a contributing author to and oversaw the work of my staff on the Board's 2010 Staff Report: Initial Statement of Reasons for Proposed Rulemaking for Adoption of Proposed Amendments to the Truck and Bus Regulation, the Drayage Regulations, and the Tractor-Trailer Greenhouse Gas Regulation. I was also a contributing author to the Board's 2008 Staff Report: Initial Statement of Reasons for Proposed Rulemaking for Adoption of Proposed Regulation for In-Use On-Road Diesel Vehicles, the initially adopted Truck and Bus Regulation. I was also a contributing author for the 2008 Technical Support Document: Regulation for In-Use On-Road Diesel Vehicles.

8. As part of my duties, I am aware and knowledgeable of national ambient air quality standards (NAAQS) for criteria pollutants that the United States Environmental Protection Agency (EPA) has established pursuant to directives under the Federal Clean Air Act (CAA). Among the NAAQS that EPA has adopted are standards for particulate matter (PM) composed of particles 2.5 microns or less in diameter (PM2.5) and 8-hour ozone. Two air basins in California – the South Coast Air Basin and the San Joaquin Valley Air Basin – are in nonattainment for both the PM2.5 and the 8-hour ozone standards. Under the CAA, the two air basins must come into compliance with the PM2.5 and 8-hour ozone standards by 2014 and 2023 respectively.

9. The Truck and Bus regulation is a key component of California's overall plan to reduce PM2.5 and oxides of nitrogen (NOx) emissions to attain the NAAQS and improve air quality and public health. The regulation specifically addresses diesel PM emissions which are a component of ambient PM2.5 and NOx emissions which are a precursor to both PM2.5 and ozone.

10. The mechanism provided under the CAA for local air quality control regions within the states to come into attainment with the NAAQS is the state implementation plan (SIP). The SIP must include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to, among other things, achieve attainment and maintenance of the NAAQS.

11. The on-road heavy-duty diesel emissions inventory is central to the Board's development of mobile source control measures that when adopted and enforced in conjunction with other local, state, and national emission reduction measures in the SIP will allow the local air quality control regions within California to achieve attainment.

12. The on-road heavy-duty diesel emissions inventory was updated in 2010 to make improvements to the emissions analysis used by the Board in developing regulations to reflect the economic recession that occurred in California and the nation starting in 2007 and specifically the impact of the recession on emissions from heavy-duty diesel-fueled vehicles. The updated inventory included an assessment of the impact of the recession on emissions, development of regional emissions estimates, revisions to the estimated number of miles traveled in California by non-California registered vehicles, addition of new vehicle categories, and improved lifetime mileage assumptions.

13. My work on the inventory has provided me with specific knowledge as to the following:

a. There are nearly one million heavy-duty vehicles (vehicles with a gross vehicle weight rating greater than 14,000 pounds) that travel California's highways each year, over 80 percent of which are diesel fueled.

b. Today and into the future, these vehicles remain the largest contributor of emissions from all mobile sources (e.g., light-duty cars, off-road equipment, locomotives, ocean going vessels, harbor craft), and they contribute substantially to violations of the NAAQS for both PM2.5 and ozone. PM and NOx both contribute to ambient PM2.5 concentrations, and NOx is also a precursor to ozone. On-road heavy-duty diesel-fueled vehicles represent 40 percent of diesel PM emissions and 30 percent of NOx emitted from all mobiles sources in California.

c. Overall, to meet the PM2.5 standard in the South Coast Air Basin by 2014, PM2.5 emissions must be reduced by approximately 15 percent and NOx emissions reduced by approximately 50 percent relative to 2002 emissions levels. To meet the PM2.5 standard in the San Joaquin Valley Air Basin by 2014, PM2.5 emissions must be reduced by approximately 25 percent and NOx emissions by approximately 60 percent relative to 2005 emissions levels.

d. NOx emission reductions, on the order of 90 percent will be needed to achieve the 8-hour ozone standard by 2023 in the South Coast Air Basin, and reductions of the order of 75 percent will be needed to achieve the 8-hour ozone standard by 2023 in the San Joaquin Valley Air Basin.

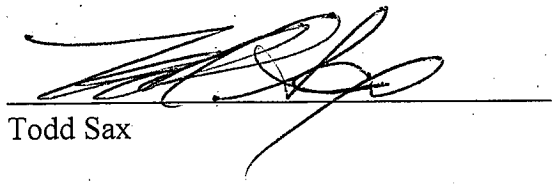
e. Significant emissions reductions from in-use on-road heavy-duty diesel-fueled vehicles are necessary for California to achieve attainment with the NAAQS in the South Coast and San Joaquin Valley Air Basins.

14. The proposed amendments to the Truck and Bus regulation, in combination with amendments to the Drayage Truck regulation, are anticipated to reduce diesel PM emissions by 50 percent from levels in 2014 if the Rules were not implemented, and will ultimately ensure that all heavy-duty diesel vehicles operating in California will be equipped with diesel PM particulate filters that significantly reduce diesel particulate emissions into the atmosphere.

15. The proposed amendments to the Truck and Bus regulation is anticipated to begin reducing diesel PM emissions in 2012. These reductions are anticipated to reduce diesel PM concentrations along roadways and in communities impacted by diesel PM emitted from truck and bus operations in California. Any delay in rule implementation or enforcement beyond January 1, 2012 will result in lost air quality benefits totaling around one-half ton of diesel particulate matter per day statewide. This delay would be anticipated to increase diesel PM concentrations along roadways and impacted communities above levels that would be achieved if the Rule were implemented.

16. It is also anticipated that that amended Truck and Bus regulation will achieve greater than an 80 percent reduction in statewide NOx emissions by 2023 from 2005 levels.

I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct and that this Declaration was executed in Sacramento, California on December 1, 2011.



Todd Sax