

FILED

UNITED STATES COURT OF APPEALS

APR 10 2008

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,

No. 08-70011

Petitioner,

WASHINGTON ENVIRONMENTAL  
COUNCIL; et al.,

Petitioners-Intervenors,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent,

ALLIANCE OF AUTOMOBILE  
MANUFACTURERS,

Respondent-Intervenor.

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.