

FILED

UNITED STATES COURT OF APPEALS

JUL 25 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,

CHESAPEAKE BAY FOUNDATION; et
al.,

Petitioner-Intervenors,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

ALLIANCE OF AUTOMOBILE
MANUFACTURERS; et al.,

Respondent-Intervenors.

SIERRA CLUB; et al.,

Petitioners,

CHESAPEAKE BAY FOUNDATION,
INC. ("CBF"),

Petitioner-Intervenors,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

ASSOCIATION OF INTERNATIONAL
AUTOMOBILE MANUFACTURERS,

Respondent-Intervenor.

No. 08-70030

ORDER

Before: SCHROEDER, LEAVY and HAWKINS, Circuit Judges.

The motions for reconsideration of the court's April 10, 2008 order denying respondent's and respondent-intervenors' motions to dismiss are granted. *See* 9th Cir. R. 27-10.

The December 19, 2007 correspondence from Stephen L. Johnson, Administrator of the Environmental Protection Agency ("Administrator") to Arnold Schwarzenegger, Governor of the State of California, is not a reviewable "final action" of the Administrator under the Clean Air Act. *See* 42 U.S.C.

§ 7607(b); *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997); *Pub. Util. Dist. No. 1 of Snohomish County, Wash. v. Bonneville Power Admin.*, 506 F.3d 1145, 1152 (9th Cir. 2007). We therefore lack jurisdiction over these consolidated petitions for review and dismiss these petitions. *See* 42 U.S.C. § 7607(b).

All other pending motions are denied as moot.

DISMISSED.