

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRUCIT**

CENTER FOR BIOLOGICAL
DIVERSITY,

Petitioner,

v.

NATIONAL HIGHWAY
TRAFFIC SAFETY
ADMINISTRATION, an agency
within the UNITED STATES
DEPARTMENT OF
TRANSPORTATION,

Respondent.

Case No. 09-70972

**[PROPOSED] STIPULATION
TO DISMISS**

In this matter, Petitioner, the Center for Biological Diversity (“Petitioner” or the “Center”) petitioned this Court for review of the final rule by Respondent National Highway Traffic Safety Administration, U.S. Department of Transportation (“NHTSA”) entitled “Average Fuel Economy Standards Passenger Cars and Light Trucks Model Year 2011,” published at 74 Fed. Reg. 14196 (March 30, 2009) [Docket No. NHTSA-2009-0062] (the “MY 2011 Rule”). While this matter was assigned to this Court’s Mediation Program, NHTSA and the Environmental Protection Agency jointly issued a proposed rule setting new light-duty vehicle standards for Model Years

2012-2016, entitled “Proposed Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards,” published at 74 Fed. Reg. 49454 (September 28, 2009) [Docket No. EPA-HQ-OAR-2009-0472] (the “MY 2012-2016 Rule”). In light of the content of the MY 2012-2016 Rule, the parties have stipulated, subject to this Court’s approval, to dismiss the instant petition for review, with all parties bearing their own costs and fees.

Respectfully submitted,

Dated: November 24, 2009

/s/ Vera P. Pardee
Vera P. Pardee
CENTER FOR BIOLOGICAL
DIVERSITY

Dated: November 24, 2009

/s/ H. Thomas Byron III
H. Thomas Byron III
Assistant United States Attorney
U.S. DEPARTMENT OF JUSTICE
Attorneys for NATIONAL
HIGHWAY SAFETY
ADMINISTRATION

Dated: November 24, 2009

/s/ Stuart A. C. Drake
Stuart A.C. Drake
KIRKLAND & ELLIS LLP
Attorneys for ALLIANCE OF
AUTOMOBILE
MANUFACTURERS

PURSUANT TO STIPULATION IT IS SO ORDERED:

As stipulated by the parties, the instant Petition for Review by the Center for Biological Diversity is hereby dismissed. All parties are to bear their own costs and fees.

Dated: _____, 2009 _____