

RESOLUTION NO. 2008-571

Adopted by the Sacramento City Council

August 19, 2008

AUTHORIZATION TO PURSUE AMICUS CURIAE PARTICIPATION IN SUPPORT OF STATE OF CALIFORNIA IN *STATE OF CALIFORNIA V. U.S. ENVIRONMENTAL PROTECTION AGENCY*

BACKGROUND

- A. On June 17, 2008, the City Council authorized the City Attorney to join the *amicus curiae* brief of the National Association of Clean Air Agencies (NACAA) in support of State of California in *State of California et al. v. U.S. Environmental Protection Agency et al.* case before the U.S. Court of Appeals for the Ninth Circuit. (Resolution No. 2008-427). The case involved a Petition for Review filed by the State of California of the U.S. Environmental Protection Agency's (EPA) denial of California's request for a waiver of federal preemption of California's greenhouse gas emissions controls.
- B. The State of California also filed a similar challenge to the EPA's decision in the U.S. Court of Appeals for the District of Columbia Circuit (*State of California et al. v. U.S. Environmental Protection Agency*, Case No. 08-1178). The D.C. Circuit Court of Appeals case was stayed pending resolution of the Ninth Circuit court case to avoid duplicative litigation.
- C. On July 25, 2008, the Ninth Circuit issued an order dismissing the case for lack of jurisdiction over the matter. As a result, the proceeding has now shifted to the U.S. Court of Appeals for the D.C. Circuit.
- D. The D.C. Court of Appeals' decision has the potential to affect the ability of the State of California to regulate automobile tailpipe emissions. A decision against the State could adversely impact the air quality of Sacramento.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Attorney is authorized to pursue *amicus curiae* participation in support of the State of California's Petition for Review in *State of California et al. v. U.S. Environmental Protection Agency* (United States Court of Appeals for the District of Columbia Circuit, Case No. 08-1178).

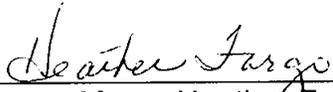
Adopted by the City of Sacramento City Council on August 19, 2008 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

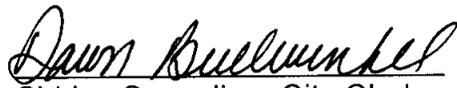
Abstain: None.

Absent: None.



Mayor Heather Fargo

Attest:


 Shirley Concolino, City Clerk