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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX) and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

County of Jefferson    )  
                                  )  
State of Alabama        )

**DECLARATION OF CLARA RUTH HAYMAN**

I, Clara Ruth Hayman, hereby declare and state:

1. I am a member of the Alabama Environmental Council (AEC) and have been for the past twelve years.
2. I reside and work in Birmingham, Alabama, and have done so for the last fourteen years.
3. Throughout the year, I spend an average of 8-10 hours per week outside in public areas. I exercise by walking throughout my neighborhood several times per week and I often walk to nearby restaurants, shopping areas, and neighborhood meetings. I also spend time in several of the public parks in my neighborhood and in the local botanical gardens. Accordingly, I cannot avoid breathing the pollution that is generated by nearby industrial sources.

4. I am deeply concerned about the level of pollution in Birmingham's air. As a result, I am closely involved in AEC's efforts to reduce those pollution levels. I have served on AEC's task force on clean air, I have represented AEC on several panels discussing air quality issues, and I have spoken publicly about my experience and my late husband's experience coping with air pollution.

5. There are numerous major sources of air pollution near where I live and work. For example, Alabama Power's Miller Steam Plant is a coal-fired power plant located approximately twenty-five miles from where I live. According to Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)), the Miller Steam Plant emitted 74,000 tons of sulfur dioxide and 32,000 tons of nitrogen oxides in 1999. Similarly, the Scorecard website indicates that the Drummond steel mill, located here in Birmingham, emitted 2000 tons of sulfur dioxide and 550 tons of volatile organic compounds that same year. Other nearby sources of industrial air pollution include the Sloss Industries coke facility (also located in Birmingham, approximately eighteen miles from my house). These facilities are several examples of the many power plants and industrial facilities that pollute Birmingham's air.

6. I am concerned about breathing harmful air pollutants from power plants, refineries, and other large polluters, and about the effect that such pollution has on my immediate and future health. For example, I am concerned about ozone pollution because I have difficulty breathing and I suffer from sinus headaches, stuffiness, and lethargy on days when ozone levels are particularly high in Birmingham.

7. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have

a negative effect on my health. I therefore support AEC's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07-23, 2004.

  
Clara Ruth Hayman

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

County of Jefferson    )  
  )  
State of Alabama        )

**DECLARATION OF JAYME HILL**

I, Jayme Hill, hereby declare and state:

1. I am the Executive Director of the Alabama Environmental Council (“AEC”), a nonprofit corporation organized and existing under the laws of the State of Alabama. I am familiar with AEC’s mission to protect and preserve Alabama’s natural heritage. Reducing Alabaman’s exposure to harmful air pollution is germane to AEC’s mission.

2. I have worked for AEC since 2000 and have been AEC’s Executive Director since March 2002. The Executive Director (ED) is the primary staff person responsible for the implementation of the AEC’s strategic plan. The ED’s primary duties are administration, fundraising and budgeting, staff supervision, analysis and advocacy for effective environmental policy, and public education. The ED is supervised by the Board

of Directors. AEC's volunteers are crucial to the advocacy work that AEC strives to accomplish.

3. My work requires that I be familiar with AEC's purpose, organization, and activities, as well as the environmental interests and concerns of AEC members. In my capacity as Executive Director of AEC, I have access to current information about all of AEC's members and board members, including their primary residential addresses.

4. Based on my review of that information, I declare that AEC has more than 800 members who live throughout Alabama and in the states of Arizona, California, Colorado, Connecticut, Florida, Georgia, Louisiana, Indiana, Massachusetts, Maryland, Missouri, Mississippi, Montana, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

5. In addition, AEC members live in the population centers in Alabama that suffer from serious air pollution problems, including Birmingham, Montgomery, and Huntsville.

6. Many of AEC's members live, work, recreate, and breathe the air in areas with major industrial sources of air pollution such as power plants, factories, and refineries. Any weakening of Clean Air Act pollution control standards that apply to major industrial sources would harm these members, who would have no choice but to breathe the additional air pollution generated in and upwind of their communities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 29<sup>th</sup>, 2004.

A handwritten signature in cursive script, appearing to read "Jayme Hill". The signature is written in black ink and is positioned above a horizontal line.

Jayme Hill  
Executive Director  
Alabama Environmental Council

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

_____ )	
STATE OF NEW YORK, <u>et al.</u> , )	
)	
Petitioners, )	
)	
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)	and consolidated cases
ENVIRONMENTAL PROTECTION )	
AGENCY, )	
)	
Respondent. )	
_____ )	

**DECLARATION OF CHARLES HEINRICH**

I, Charles Heinrich, declare as follows:

1. I am a member of the American Lung Association and have been a member since approximately 1990. As chair-elect of the American Lung Association's national board of directors, I am very familiar with the organization's mission and activities.
2. The mission of the American Lung Association is to prevent lung disease and to promote lung health. Since the 1960s the Lung Association has supported national and local initiatives to combat smoking and reduce air pollution in order to reduce these threats to lung health. Recently the American Lung Association has lead initiatives to tighten EPA regulations to reduce ambient levels of ozone and particulate air pollution including tighter emissions standards for diesel trucks and buses and diesel engines used in construction and other off-road equipment.
3. I live in Redmond, Washington at 4008 168<sup>th</sup> Avenue NE. I am aware that there are a large number of major stationary sources of air pollution near where I live. For example,



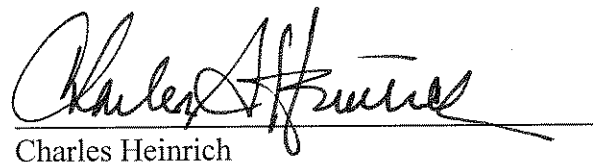
the power plant for the University of Washington is located just across the lake from my house, approximately twelve miles away. Also, numerous industrial facilities are located near the Port of Washington, which is less than twenty miles from my home. According to the website [www.scorecord.org](http://www.scorecord.org), nearby industrial facilities include plants operated by: LaFarge, Birmingham Steel, Ball-Foster Glass, Ash Grove Cement, and Kenworth Truck. These are just a few examples of the many major industrial sources that pollute the air in my community.

4. I am very concerned about the negative health effects of breathing pollution from major industrial facilities located in and upwind of where I live. I exercise outdoors about five times each week—either walking, running, or climbing stairs—and cannot avoid breathing the air pollution that is generated by these facilities.

5. I am aware that the EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution increases will have a negative effect on my health. Thus, I strongly support the American Lung Association's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of April, 2004.

  
Charles Heinrich

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

_____	)	
STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
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ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	
_____	)	

**DECLARATION OF STANTON H. HUDSON, JR.**

I, Stanton H. Hudson, Jr., declare as follows:

1. I am a member of the American Lung Association and have been a member for approximately 20 years. I am a member of the American Lung Association’s Board of Directors and have held this position for the past four years.

2. I live in Buffalo, New York, at 839 Auburn Avenue. My office is located about a mile from my home.

3. Through my work with the American Lung Association, I am aware that air quality in Buffalo violates federal air quality standards. This year, some air quality monitors in upstate New York recorded even more violations of the federal standard for ground-level ozone than were recorded in New York City—an area that is well known for unhealthy air quality. Air quality in the area where I live was particularly bad last summer; According to the New York State Department of Environmental Conservation, the monitoring station closest to my home

(Town of Amherst in Erie County) recorded more violations of the national ambient air quality standard for ozone than all but one of the state's thirty-one monitoring stations.

4. I am aware that there are a large number of major stationary sources of air pollution near where I live and work, such as power plants and large factories. For example, the Huntley Generating Station, a coal-fired power plant, is located less than seven miles from my home. According to the website [www.scorecard.org](http://www.scorecard.org), the Huntley plant releases nearly 50,000 tons per year of sulfur dioxide and 9,500 tons per year of nitrogen oxides. The Tonawanda Coke Plant is also located less than seven miles from my home, and according to the website emits more than 1700 tons of particulate matter into the air each year. Other nearby industrial sources include the Goodyear Tire plant (< 6 miles), PVS Chemicals (< 7 miles), Outokumpu American Brass (< 4 miles), General Mills (< 6 miles), Bethlehem Steel (< 8 miles), the BethEnergy Lackawanna Coke Plant (< 8 miles), the DuPont Yerkes Plant (< 10 miles), and the Bird Island Sewage Treatment plant (< 2 miles). These are just a few examples of the many major industrial sources that pollute the air in my community.

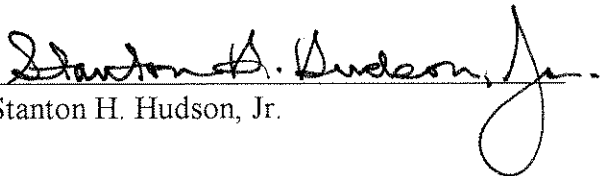
5. I am very concerned about the negative health effects of breathing pollution from major industrial facilities located near where I live and work. In particular, I am worried about damage to my lungs. Unlike other organs, lungs cannot repair themselves once they have been damaged by air pollution. I am aware that many seniors in my community have suffered so much lung damage that they can no longer go outside on days with bad air quality. Thus, I fear that air pollution from nearby industrial sources is already causing irreparable injury to my lungs. If pollution from those facilities increases, the damage will be more severe.

6. I regularly exercise outdoors and cannot avoid breathing the pollution that is generated by nearby industrial sources.

7. I am aware that the EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution increases will have a negative effect on my health. I strongly support efforts by the American Lung Association on my behalf and on behalf of other affected members to prevent these new regulations from going into effect.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6<sup>th</sup> day of April, 2004.

  
Stanton H. Hudson, Jr.

**IN THE UNITED STATES COURT OF APPEALS  
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STATE OF NEW YORK, <u>et al.</u> ,	)	
Petitioners,	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
Respondent.	)	
	)	

County of Philadelphia	)	
	)	
Commonwealth of Pennsylvania	)	

**DECLARATION OF JOSEPH OTIS MINOTT**

I, Joseph Otis Minott, hereby declare and state:

1. I am the Executive Director for the Clean Air Council (“CAC”), a nonprofit corporation organized and existing under the laws of the Commonwealth of Pennsylvania. I am familiar with CAC’s mission to use public education, community advocacy, and government oversight to ensure enforcement of environmental laws to improve air quality throughout Pennsylvania and Delaware. Working to reduce people’s exposure to industrial air pollution is germane to CAC’s mission.
  
2. I have been the Executive Director of CAC since 1987. Pursuant to my duties as Executive Director, I have access to CAC’s membership databases. These databases provide


current information about all of CAC's approximately 7,500 members, including their primary residential addresses.

3. Based on my review of that information, I declare that CAC members reside in communities throughout Pennsylvania and Delaware in which major sources of air pollution are situated, including population centers such as Pittsburgh, Harrisburg, Philadelphia, and Wilmington. Many of the industrial facilities that contribute to the air pollution in these areas are subject to the Clean Air Act's new source review program, which is administered by the United States Environmental Protection Agency (EPA).

4. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution to increase their pollution levels without undergoing new source review.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/27, 2004.

  
Joseph Otis Minott  
Executive Director  
Clean Air Council

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
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Petitioners,	)	
	)	
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	)	and consolidated cases
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ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

County of Philadelphia	)	
	)	
State of Pennsylvania	)	

**DECLARATION OF DENNIS R. WINTERS**

I, Dennis R. Winters, hereby declare and state:

1. I am a member of the Clean Air Council (CAC) and have been for the past twelve years. I am also the former deputy director of CAC.
2. I reside and work in Philadelphia, Pennsylvania, and have done so since 1995. I have lived in Greater Philadelphia since 1988. I work at the Energy Coordinating Agency of Philadelphia.
3. Throughout the year, I spend an average of 40 hours per week outside. I do not own an automobile and I typically travel to and from work and to various meetings either by walking or bicycling. I also spend time outdoors hiking, bird watching, and taking photographs.

Accordingly, I cannot avoid breathing the pollution that is generated by nearby industrial sources.

4. I am deeply concerned about the level of pollution in Philadelphia's air. I have been involved in environmental advocacy for over thirty years, working and volunteering for groups such as CAC, the Sierra Club, and the Izaak Walton League of America. During that time, I have been primarily focused on reducing air pollution and other negative environmental impacts associated with transportation and energy production. In addition, I used to log the daily air pollution levels registered at several local monitoring stations with AccuWeather. AccuWeather is a weather reporting service that contracted CAC to record data from those monitors.

5. There are numerous major sources of air pollution near where I live and work. For example, Sun Company's oil refining complex is located several miles upwind from where I live. According to Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)), the Sun refinery emitted 14,000 tons of sulfur dioxide and 10,000 tons of nitrogen oxides in 1999. Similarly, Scorecard indicates that the Trigen Schuylkill energy facility, located six blocks from my residence in Philadelphia, emitted 240 tons of sulfur dioxide and 680 tons of nitrogen oxides that same year. These facilities are just two examples of the numerous power plants and industrial facilities that pollute Philadelphia's air.

6. I am concerned about breathing harmful air pollutants from power plants, refineries, and other large polluters, and about the effect that such pollution has on my health.

7. I frequently visit National Parks and Wilderness Areas throughout the country and I plan to continue to visit such areas. Many of the parks and wilderness areas I have visited are designated Mandatory Class I Federal Areas, including: Shenandoah National Park, Yellowstone National Park, Teton Wilderness Area, Great Smoky Mountains National Park, Brigantine



Wilderness Area, Crater Lake National Park, Grand Canyon National Park, Sequoia National Park, Craters of the Moon Wilderness Area, Carlsbad Caverns National Park, Yosemite National Park, Lassen Volcanic National Park, and Everglades National Park. I have visited many of these areas more than once and have noticed that visibility has diminished at places like Grand Canyon National Park, Crater Lake National Park, Carlsbad Caverns National Park, and Yosemite National Park. As a nature enthusiast and a photographer, haze has impaired my enjoyment of these parks and wilderness areas. In addition, I am concerned about acid deposition and ozone-related foliar damage in these areas. I am aware that the United States Environmental Protection Agency has found that power plants and other major industrial sources of pollution contribute to visibility-impairing haze in national parks and wilderness areas. Therefore, I am opposed to any weakening of the Clean Air Act requirements that regulate emissions from those facilities.

8. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have a negative effect on my health. I therefore support CAC's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 28, 2004

  
\_\_\_\_\_  
Dennis R. Winters

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
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	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

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**DECLARATION OF YUKI KIDOKORO**

I, Yuki Kidokoro, declare as follows:

1. I am a member of Communities for a Better Environment (“CBE”) and have been a member since 1997. I have been CBE’s Executive Director since February 2004. I know the facts herein of my own knowledge and could competently testify thereto if called as a witness.

2. CBE is a member-based, non-profit public benefit corporation whose organizational goals include improving the environment and public health in California and nationally. Founded in 1978 as Citizens for a Better Environment, CBE has been active in air quality issues in California for over twenty-four years. CBE members are gravely concerned about environmental and public health threats posed by air pollution from factories, refineries, and other major sources of air pollution. CBE staff and CBE members have been involved in advocacy on environmental health and air pollution in California, the South Coast Air Basin, and the Bay Area Air Quality Management District for many years. CBE has offices in Huntington Park, California and Oakland, California. I work out of CBE’s Huntington Park office. The

Exhibit 7

interests CBE seeks to further in this action, namely, the protection and improvement of air quality, the promotion of the public's right to participate in New Source Review ("NSR"), and compliance with environmental laws, are within the purposes and goals of the organization.

3. CBE's work includes advocacy for national policies that improve air quality in communities where its members live and work. CBE also provides public education, training, and technical support to communities in near oil refineries and other major sources of air pollution. Community members throughout the country visit CBE's website, subscribe to CBE's newsletter, communicate with CBE staff, and use CBE's training materials.

4. As Executive Director, I am responsible for overseeing maintenance of CBE's membership database. A search of that database reveals that CBE has over 40,000 members in California. Approximately 8,000 of those members reside in Los Angeles County, including 3,500 members in the City of Los Angeles, 309 in Burbank, five in Wilmington, 87 in Long Beach, 202 in Torrance, 361 in Pasadena, 73 in San Pedro, 23 in Huntington Park, 9 in El Segundo, and one in La Habra. All of these cities and communities are located in the South Coast Air Basin. Attached hereto as Exhibit A is a true and correct copy of a summary chart of CBE's members in the Los Angeles area, including Orange County, where CBE has 191 members.

5. CBE has over 33,000 members in the greater Bay Area, including 2,782 members in Oakland, 178 in Pittsburg, 1,677 in San Francisco, 1,924 in San Jose, 796 in Richmond, 968 in Martinez, and 189 in Rodeo. Attached hereto as Exhibit B is a true and correct copy of a chart of CBE's members in the greater San Francisco Bay Area.

6. Though most CBE members reside in California, CBE also has members living in Texas (61 members), Illinois (44 members), Louisiana (7 members), Massachusetts (60

members), New York (80 members), New Jersey (23 members), Connecticut (19 members), Vermont (5 members), New Hampshire (11 members), Maine (9 members), Rhode Island (4 members), and Maryland (24 members). Attached hereto as Exhibit C is a true and correct copy of a list of CBE's members in each state.

7. CBE's members live, work, play, attend school, and breathe the air in areas where air quality is affected by pollution from major stationary sources. CBE and its members rely on the Clean Air Act's NSR permitting requirements as an important tool in their efforts to protect and improve air quality by reducing pollution from these sources. CBE and its members have participated in NSR permitting proceedings for numerous facilities in California's South Coast Air Basin and the Bay Area Air Quality Management District. For example, CBE and many of its members were recently involved in a long NSR proceeding involving an oil refinery in Santa Fe Springs, California called Cenco. CBE and many of its members submitted comments during the permitting proceeding for that oil refinery. I talked with many CBE members in preparation for the public hearing on the NSR permitting process for this refinery and I attended a public hearing about the permitting for the refinery. Ultimately, CBE filed a Clean Air Act citizen suit against the refinery and the South Coast Air Quality Management District for NSR violations. CBE obtained several favorable court opinions in that case. *See Communities for a Better Environment v. Cenco, et al.*, 179 F.Supp.2d 1128 (C.D.Cal. 2001); 180 F.Supp.2d 1062 (2001), *aff'd* 38 Fed.Appx. 508 (9th Cir. 2002). CBE and its members would like to continue their efforts to reduce air pollution by participating in NSR permit proceedings.

8. Under EPA's revised NSR rules, sources can make changes that substantially increase emissions without installing up-to-date pollution controls, and without offsetting emission increases with emission decreases achieved elsewhere. CBE members will have no

choice but to breathe the resulting additional pollution generated by major sources located in and upwind of their communities. Moreover, EPA's new rules allow such emissions increases to occur without any opportunity for public participation in the decision-making process. The loss of this public participation opportunity harms CBE and its members, who have participated in NSR proceedings in the past and wish to continue such participation in the future.

9. I live in Los Angeles, California, which is located in the South Coast Air Basin. I am concerned about the impact of EPA's revised NSR rules on air quality in my area, which already violates federal air quality standards. A large number of major sources of air pollution are located near my home, including refineries and other large stationary sources. I am very concerned about the impact of increased air pollution from these sources on my health. I have previously attended a public hearing on NSR permitting for a refinery.

///

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 14, 2004, in Huntington Park, Los Angeles County, California.

  
Yuki Kidokoro

Exhibit A  
CBE L.A. County Members by City

<u>City</u>	<u>Number of CBE Members</u>
Agoura Hills	13
Alhambra	6
Arcadia	14
Bell Canyon	2
Bellflower	1
Beverly Hills	57
Brentwood	16
Burbank	309
Calabasas	42
Carson	4
Castaic	3
Cerritos	6
Chatsworth	7
Covina	3
Culver City	88
Diamond Bar	3
Downey	4
Duarte	5
El Segundo	9
Encino	173
Glendale	25
Glendora	4
Granada Hills	227
Hermosa Beach	228
Hidden Hills	3
Hollywood	17
Huntington Park	4
Huntington Pk	19
La Canada	8
La Crescenta	6
La Habra	1
La Mirada	3
La Verne	4
Lakewood	5
Lancaster	4
Lomita	2
Long Beach	87
Los Alamitos	7
Los Angeles	3,749
Malibu	38
Manhattan Beach	1
Marina Del Rey	1
Monrovia	4
Montclair	2
Newhall	3
Northridge	32
Norwalk	3
Pacific Palisades	2
Palmdale	2
Pasadena	361
Pico Rivera	2

Playa Del Rey	51
Pomona	11
Redondo Beach	787
Rolling Hills	3
Rosemead	1
San Gabriel	7
San Marino	3
San Pedro	73
Santa Clarita	1
Santa Monica	945
Saugus	2
Sherman Oaks	371
Sierra Madre	74
Signal Hill	3
South Pasadena	1
Studio City	141
Tarzana	162
Temple City	2
Torrance	202
Valencia	11
Venice	380
Walnut	2
West Covina	8
West Hills	8
Westchester	87
Westlake Village	1
Westwood	3
Whittier	14
Wilmington	5
Woodland Hills	4

Number of Cities: 81

Los Angeles County Total Members: 8,982

### CBE Orange County Members by City

<u>City</u>	<u>Number of Members</u>
Aliso Viejo	3
Anaheim	4
Brea	1
Buena Park	1
Cerritos	6
Costa Mesa	8
Cypress	1
Dana Point	3
Fullerton	9
Garden Grove	5
Huntington Beach	1
Irvine	11
La Habra	1
La Palma	1
Laguna Beach	8
Laguna Hills	13
Laguna Niguel	11

Laguna Woods	2
Lake Forest	2
Los Alamitos	7
Midway City	1
Mission Viejo	6
Newport Beach	8
Newport Coast	2
Orange	7
Rancho Santa Margar	1
San Clemente	7
Santa Ana	10
Seal Beach	42
Stanton	1
Sunset Beach	1
Tustin	2
Villa Park	1
Yorba Linda	4

Number of Cities: 34

**Orange County Total Members: 191**



Exhibit B  
**CBE Members in Greater Bay Area by Zip Code**

**East Bay and Northeast**

<u>City</u>	<u># Members</u>	<u>Zip Code Range</u>
Alameda	812	94501 TO 94502
Alamo	72	94507 TO 94507
Albany	377	94607 TO 94710
Alberta	2	94706 TO 94706
American Cyn	3	94503 TO 94503
Angwin	2	94508 TO 94508
Antioch	40	94509 TO 94531
Bay Point	7	94565 TO 94565
Benicia	426	94510 TO 94596
Berkeley	2,638	94701 TO 94720
Bethel Island	2	94511 TO 94511
Brentwood	16	94513 TO 94513
Byron	9	94514 TO 94514
Calistoga	4	94515 TO 94515
Canyon	1	94516 TO 94516
Castro Valley	216	94546 TO 94552
Clayton	11	94517 TO 94517
Concord	200	94518 TO 94527
Crockett	76	94525 TO 94525
Danville	225	94501 TO 94526
Diablo	3	94528 TO 94528
Discovery Bay	3	94514 TO 94514
Dublin	12	94568 TO 94568
El Cerrito	627	94530 TO 94530
El Sobrante	265	94803 TO 94820
Emeryville	21	94608 TO 94662
Fairfield	15	94533 TO 94533
Fremont	653	94536 TO 94555
Hayward	146	94541 TO 94545
Hercules	346	94547 TO 94547
Kensington	195	94706 TO 94708
Lafayette	458	94540 TO 94549
Livermore	147	94550 TO 94551
Martinez	968	94553 TO 94553
Moraga	102	94556 TO 94575
Napa	44	94558 TO 94581
Newark	11	94560 TO 94560
Oakland	2,782	94601 TO 94662
Oakley	11	94561 TO 94561
Orinda	255	94563 TO 94563
Pacheco	30	94553 TO 94553
Piedmont	220	94610 TO 94620
Pinole	321	94564 TO 94564
Pittsburg	178	94515 TO 94565
Pleasant Hill	792	94523 TO 94523
Pleasanton	39	94566 TO 94588
Port Costa	2	94569 TO 94569
Pt Richmond	102	94801 TO 94801
Richmond	796	94801 TO 94808
Rio Vista	5	94571 TO 94571

Rodeo	189	94572 TO 94572
Rutherford	1	94573 TO 94573
Saint Helena	13	94574 TO 94574
San Leandro	52	94577 TO 94579
San Lorenzo	109	94580 TO 94580
San Pablo	68	94806 TO 94806
San Ramon	114	94583 TO 94583
Suisun City	13	94585 TO 94585
Sunol	3	94586 TO 94586
Union City	14	94587 TO 94587
Vallejo	51	94503 TO 94592
Walnut Creek	660	94595 TO 94598
Yountville	2	94599 TO 94599

Members in East Bay and Northeast: 15,977

<b>North Bay and Beyond</b>		<u>Zip Code Range</u>
Albion	2	95410 TO 95410
Bel Tiburon	20	94920 TO 94920
Belvedere	23	94920 TO 94920
Bodega	1	94922 TO 94922
Bodega Bay	2	94923 TO 94923
Bolinas	32	94924 TO 94924
Boyes Hot Spg	1	95416 TO 95416
Cazadero	3	95421 TO 95421
Clearlake	1	95422 TO 95422
Clearlake Oks	1	95423 TO 95423
Cloverdale	6	95425 TO 95425
Corte Madera	120	94925 TO 94976
Cotati	7	94931 TO 94931
Covelo	1	95428 TO 95428
El Verano	2	95433 TO 95433
Fairfax	269	94930 TO 94978
Forest Knolls	18	94933 TO 94935
Forestville	8	95436 TO 95436
Fort Bragg	9	95437 TO 95437
Geyserville	1	95441 TO 95441
Glen Ellen	6	95442 TO 95442
Greenbrae	50	94904 TO 94904
Gualala	6	95445 TO 95445
Guerneville	2	95446 TO 95446
Healdsburg	16	95448 TO 95448
Hopland	1	95449 TO 95449
Inverness	17	94937 TO 94937
Jenner	1	95450 TO 95450
Kelseyville	5	95451 TO 95451
Kentfield	77	94904 TO 94914
Kenwood	4	95452 TO 95452
Lagunitas	10	94938 TO 94938
Lakeport	3	95453 TO 95453
Larkspur	98	94939 TO 94977
Littleriver	2	95456 TO 95456
Lucerne	2	95458 TO 95458
Mendocino	7	95460 TO 95460
Middletown	1	95461 TO 95461

Mill Valley	680	94921 TO 94961
Monte Rio	2	95462 TO 95462
Muir Beach	6	94965 TO 94965
Nicasio	2	94946 TO 94946
Novato	467	94945 TO 94949
Occidental	7	95465 TO 95465
Penngrove	5	94951 TO 94951
Petaluma	234	94952 TO 94975
Philo	2	95466 TO 95466
Point Arena	1	95468 TO 95468
Point Reyes Station	1	94956 TO 94956
Pt Reyes Sta	16	94956 TO 94956
Redwood Vly	2	95470 TO 95470
Rohnert Park	15	94926 TO 94928
Ross	18	94957 TO 94957
San Anselmo	348	94960 TO 94979
San Geronimo	14	94963 TO 94963
San Rafael	988	94901 TO 94915
Santa Rosa	120	95401 TO 95409
Sausalito	203	94963 TO 94966
Sebastopol	50	95472 TO 95473
Sonoma	85	95476 TO 95476
Stinson Beach	14	94970 TO 94979
The Sea Ranch	1	95497 TO 95497
Tiburon	93	94920 TO 94920
Ukiah	7	95482 TO 95482
Upper Lake	1	95485 TO 95485
Valley Ford	1	94972 TO 94972
Villa Grande	1	95486 TO 95486
Willits	6	95490 TO 95490
Windsor	8	95492 TO 95492
Witter Spgs	1	95493 TO 95493
Woodacre	43	94973 TO 94973
Yorkville	1	95494 TO 95494

Members in North Bay and Beyond: 4,278

<u>San Francisco Peninsula</u>		<u>Zip Code Range</u>
Atherton	32	94027 TO 94027
Belmont	73	94002 TO 94002
Brisbane	69	94005 TO 94005
Burlingame	103	94010 TO 94011
Daly City	247	94014 TO 94015
E Palo Alto	5	94303 TO 94303
El Granada	55	94018 TO 94108
Emerald Hills	2	94062 TO 94062
Foster City	273	94404 TO 94404
Half Moon Bay	111	94019 TO 94019
Hillsborough	22	94010 TO 94010
La Honda	40	94020 TO 94025
Ladera	3	94025 TO 94025
Los Altos	420	94022 TO 94024
Los Altos Hills	1	94002 TO 94002
Menlo Park	748	94025 TO 94028
Millbrae	14	94030 TO 94030

Moffett Field	2	94035 TO 94035
Montara	39	94037 TO 94037
Moss Beach	34	94038 TO 94038
Mountain View	363	94039 TO 94043
Pacifica	464	94044 TO 94044
Palo Alto	1,191	94301 TO 94309
Pescadero	4	94060 TO 94060
Portola Valley	180	94028 TO 94028
Redwood City	876	94061 TO 94065
S San Fran	270	94080 TO 94083
San Bruno	33	94066 TO 94066
San Carlos	195	94070 TO 94070
San Francisco	1,677	94101 TO 94188
San Mateo	582	94401 TO 94404
Stanford	91	94305 TO 94309
Sunnyvale	1,272	94085 TO 94089
Woodside	123	94062 TO 94062

Members in Peninsula: 9,614

<b>South Bay and Southeast</b>		<u>Zip Code Range</u>
Alviso	2	95002 TO 95002
Aptos	32	95001 TO 95003
Aromas	3	95004 TO 95004
Ben Lomond	9	95005 TO 95005
Bonney Doon	1	95060 TO 95060
Boulder Creek	14	95006 TO 95006
Campbell	58	95008 TO 95011
Capitola	6	95010 TO 95010
Castroville	1	95012 TO 95012
Corralitos	1	95076 TO 95076
Cupertino	543	95014 TO 95016
Davenport	1	95017 TO 95017
Felton	6	95018 TO 95018
Gilroy	8	95020 TO 95020
Hollister	7	95023 TO 95023
La Selva Bch	4	95076 TO 95076
Los Gatos	248	95030 TO 95033
Milpitas	17	95035 TO 95036
Monte Sereno	41	95030 TO 95030
Morgan Hill	16	95037 TO 95038
Moss Landing	1	95039 TO 95039
Mount Hermon	1	95041 TO 95041
San Jose	1,924	95010 TO 95192
San Juan Bautista	1	95045 TO 95045
San Martin	1	95046 TO 95046
San Mateo	1	95103 TO 95103
Santa Clara	184	95050 TO 95056
Santa Cruz	129	95060 TO 95066
Saratoga	138	95070 TO 95070
Scotts Valley	10	95066 TO 95067
Sn Jun Batsta	1	95045 TO 95045
Soquel	13	95073 TO 95073
Watsonville	16	95076 TO 95076

**Members in South Bay and Southeast: 3,438**

**Total Number of Cities, Greater Bay Area: 201**

**Total Members in Greater Bay Area: 33,307**

**Exhibit C - State Breakdown of CBE Members**

<u>State</u>	<u>No. of CBE Members</u>
Alabama	2
Alaska	9
Arizona	71
Arkansas	2
California	45,689
Colorado	75
Connecticut	19
Delaware	1
District of Columbia	18
Florida	50
Georgia	18
Hawaii	30
Idaho	24
Illinois	44
Indiana	6
Iowa	4
Kansas	6
Kentucky	5
Louisiana	7
Maine	9
Maryland	24
Massachusetts	60
Michigan	27
Minnesota	18
Mississippi	2
Missouri	18
Montana	12
Nebraska	2
Nevada	61
New Hampshire	11
New Jersey	23
New Mexico	25
New York	80
North Carolina	27
North Dakota	2
Ohio	19
Oklahoma	4
Oregon	134
Pennsylvania	21
Rhode Island	4
South Carolina	10
South Dakota	2
Tennessee	10
Texas	61
Utah	28
Vermont	5
Virginia	37
Washington	148
West Virginia	1
Wisconsin	16
Wyoming	3

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, et al.,

Petitioners,

v.

ENVIRONMENTAL PROTECTION  
AGENCY,

Respondent.

Docket No. 02-1387 (COMPLEX)  
and consolidated cases

**DECLARATION OF CAROL PICENO**

I, Carol Piceno, declare as follows:

1. I live at 1137 Broad Avenue, Wilmington, California. I live with my son Juan Carlos, who is eleven years old. I have lived in Wilmington since 1991. I work in Wilmington. I know the facts contained in this declaration of my own personal knowledge. I could and would competently testify competently to those facts if called as a witness in this matter.

2. I am a member of Communities for a Better Environment and have been a member since 2000. I joined CBE because I support its goals of preventing pollution and improving the air quality in the Los Angeles area generally, and the Wilmington area specifically. I regularly attend CBE meetings and have been working closely with CBE organizer Cheno Eichwald for several years to improve the air quality in Wilmington.

3. My son has asthma. I also have asthma. I am concerned for my health and the health of my son. I am fearful that exposure to air pollutants from the refineries and factories

1 near my house in Wilmington are having a negative impact on my health and my son's health,  
2 and are making our asthma worse. My son often plays outside and I am concerned about the  
3 health impacts of him breathing air that is polluted by the refineries, factories, and other pollution  
4 sources near our home in Wilmington. I am concerned about breathing polluted air caused by  
5 emissions from the refineries that are located near my house. For example, the Tosco refinery is  
6 located only about one mile from my home. In 1999, a big explosion and fire at the Tosco  
7 refinery caused air pollution in my community. I was scared to breathe during and after this fire  
8 because of the pollution from the explosion and fire. It scared me to know that a facility so close  
9 to my house blew up. The Texaco, Union Oil, and Ultramar refineries are all also located only  
10 about two miles from my home. I am worried that any weakening of the Clean Air Act's New  
11 Source Review requirements would allow these refineries and other industrial polluters to avoid  
12 installing up-to-date pollution control equipment, thereby increasing the risk of future explosions  
13 and accidents. Any increase in air pollution from refineries and other industrial sources in and  
14 upwind of my community will harm me and my son, since we have no choice but to breathe the  
15 air that is polluted by these sources.

16  
17  
18  
19 4. On Sunday February 9, 2003, the Los Angeles Times ran a story (Deborah  
20 Schoch, *Refinery to Phase Out Toxic Chemical*, Metro Section, page three) featuring a picture of  
21 me and my son and discussing my concern about the Ultramar refinery's use of hydrofluoric acid  
22 (HF). As discussed in the article, I have attended meetings of the South Coast Air Quality  
23 Management District (SCAQMD) to raise my concern for my health and the health of my son  
24 due to the refineries and other pollution sources in and around Wilmington. I worked with CBE  
25 to push Ultramar and the SCAQMD to stop use of HF without modification at the refinery in  
26  
27  
28

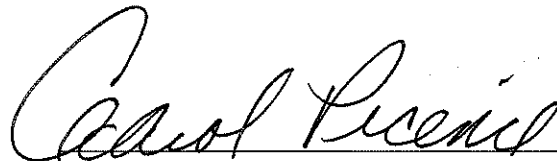


1 Wilmington. Our efforts resulted in an agreement between SCAQMD and Ultramar to phase out  
2 the use of pure HF at the refinery.

3 5. If fewer facilities in Wilmington and nearby communities are subject to New  
4 Source Review, I am afraid that the air will get more polluted and my health will decline.  
5 Likewise, I am concerned that if facilities are not required to apply for a New Source Review  
6 permit before increasing their pollution levels, there will be no opportunity for me and other  
7 community members to participate in a public hearing or submit written comments before  
8 pollution increases are allowed to occur. I want to participate in the public environmental review  
9 process for the refineries and factories near my house. I am aware that the EPA has recently  
10 revised its Clean Air Act regulations to allow existing major sources of air pollution such as  
11 those located near my home to increase their pollution levels without undergoing new source  
12 review. I am very concerned that such pollution increases will have a negative effect on my  
13 health. I strongly support the CBE's legal challenge to these new regulations.  
14  
15

16 ///

17 I declare under penalty of perjury of the laws of the United States that the foregoing is  
18 true and correct. Executed on April \_\_, 2004, in Wilmington, Los Angeles County, California.  
19

20  
21   
22 Carol Piceno

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, et al.	)	
	)	
	)	
Petitioner,	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
v.	)	
	)	
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF PETER H. FLINT**

I, Peter H. Flint, declare and state:

1. I am the President of the Board of Directors of the Delaware Nature Society (“DNS”), a nonprofit corporation organized and existing under the laws of the State of Delaware. In that capacity, I am familiar with DNS’s mission, which is to foster understanding, appreciation, and enjoyment of the natural world through education; preserve ecologically significant areas; and advocate stewardship of natural resources. Working to reduce Delawarean’s exposure to harmful air pollution is central to DNS’s mission.
2. I have been the Board President for DNS since 1997. My duties as President of the Board of Directors include: representing the organization before the membership and the public, especially as it relates to major donors and planned giving projects.
3. In my capacity as President of the Board of Directors for DNS, I have access to current information about all of DNS’s members and board members, including their primary residential addresses.

4. Based on my review of that information, I declare that DNS has more than 3000 members. Those members live throughout Delaware as well as in Pennsylvania, New Jersey, Maryland, Maine, Massachusetts, Vermont, Connecticut, New York, New Hampshire, Virginia, North Carolina, South Carolina, Georgia, Florida, Ohio, Iowa, Wisconsin, California, Arizona, the District of Columbia, and the Virgin Islands.
5. DNS's members live work, recreate, and breathe in areas of Delaware that are home to numerous major sources of industrial air pollution, including the Indian River Power Plant, Conectiv's Edge Moor power plant and the Premcor Refinery (formerly Motiva) in Delaware City. These facilities are just a few examples of the many major sources of air pollution in Delaware.
6. I live in Greenville, Delaware and spend an average of more than 20 hours per week outside. As part of my work, I participate in outdoor programs at the Ashland, Delaware nature center. I am deeply concerned about the pollution in Delaware's air.
7. I am concerned about breathing harmful air pollutants from power plants, refineries and other large polluters and about the effect that such pollution has on my health.
8. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have a negative effect on my health and recreation. Therefore, I support the Delaware Nature Society's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 5, 2004



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Peter H. Flint

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, et al.	)	
	)	
	)	
Petitioner,	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
v.	)	
	)	
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF MICHAEL E. RISKA**

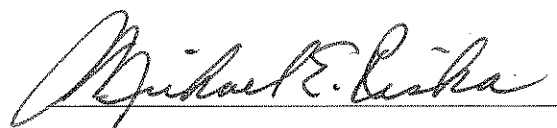
I, Michael E. Riska, declare and state:

1. I am the Executive Director of the Delaware Nature Society (“DNS”), a nonprofit corporation organized and existing under the laws of the State of Delaware. In that capacity, I am familiar with DNS’s mission, which is to foster understanding, appreciation, and enjoyment of the natural world through education; preserve ecologically significant areas; and advocate stewardship of natural resources. Working to reduce Delawarean’s exposure to harmful air pollution is central to DNS’s mission.
2. I have been the Executive Director for DNS since 1984. My duties as Executive Director include: administering all programs and other operations of the Delaware Nature Society with the assistance of staff and volunteers, carrying out policies of the board of directors, and representing the organization before the membership and the public. Additionally, I work with major donors and planned giving projects.
3. In my capacity as Executive Director for DNS, I have access to current information about all of DNS’s members and board members, including their primary residential addresses.

4. Based on my review of that information, I declare that DNS has more than 3000 members. Those members live throughout Delaware as well as in Pennsylvania, New Jersey, Maryland, Maine, Massachusetts, Vermont, Connecticut, New York, New Hampshire, Virginia, North Carolina, South Carolina, Georgia, Florida, Ohio, Iowa, Wisconsin, California, Arizona, the District of Columbia, and the Virgin Islands.
5. DNS's members live work, recreate, and breathe in areas of Delaware that are home to numerous major sources of industrial air pollution, including the Indian River Power Plant, Conectiv's Edge Moor power plant and the Premcor Refinery (formerly Motiva) in Delaware City. These facilities are just a few examples of the many major sources of air pollution in Delaware.
6. I live in Hokessin, Delaware and spend an average of more than 20 hours per week outside. As part of my work, I participate in outdoor programs at the Ashland, Delaware nature center. When not working, I enjoy hiking and other outdoor activities. I am deeply concerned about the pollution in Delaware's air.
7. I am concerned about breathing harmful air pollutants from power plants, refineries and other large polluters and about the effect that such pollution has on my health.
8. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have a negative effect of my health and recreation. I therefore support Delaware Nature Society's challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5/5/04



Michael E. Riska

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF HERMAN DOBBS**

Herman Dobbs declares as follows:

1. I am a member of Environmental Defense and have been a member for several years.
2. I am 76 years old, and I live in my house at 3521 Nottingham in Houston, Texas. I have lived in this house for almost 11 years, and I have lived in the Houston area for about 50 years. Over the time that I have lived in Houston, air quality has grown steadily worse.
3. I am a retired surgeon. Through this work I have become familiar with the health threats posed by industrial air pollutants. For example, I am aware that ozone is a severe lung irritant that has been connected by extensive scientific literature to a variety of health impacts, including damage to lung tissue, reduced lung function, shortness of breath, coughing, and wheezing.
4. I am aware that there are a large number of major stationary sources of air pollution in the Houston area such as power plants, refineries, and chemical plants. A large number of major industrial sources are located in the southeastern part of the Houston

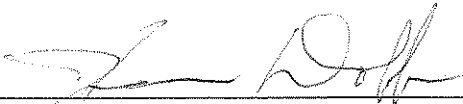
metropolitan area, near the Houston Ship Channel. I believe that the number of facilities along the Ship Channel may be the largest concentration of industrial sources anywhere in the country. A number of large petroleum refineries are located along the Ship Channel, including the Lyondell refinery (about 15 miles from my home) and the Shell Oil refinery (about 25 miles from my home). These are just a few examples of the many large polluters operating in the Houston area.

5. I am very concerned about breathing pollution from major industrial sources located in and upwind of the Houston area, and about the effect that such pollution has on my health. In particular, I have difficulty breathing when pollution levels are high. I have been diagnosed with asthma and emphysema, both of which are out of proportion to my minimal smoking history when I was in my 20s. I now must avoid cycling, gardening, and walking when pollution levels are high.

6. I am aware that the EPA has recently revised its Clean Air Act regulations to allow major industrial polluters located in and upwind of my community to increase their pollution levels without installing up-to-date pollution control technology and without offsetting their emission increases with emission decreases at other sources. I am concerned about the impact of additional air pollution on my health and that of my child and grandchildren who live nearby. Thus, I strongly support the Environmental Defense's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27<sup>th</sup> day of April, 2004.

  
\_\_\_\_\_  
Herman Dobbs



**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF LUCY LOWENTHAL**

I, Lucy Lowenthal, declare as follows:

1. I am the Director of Marketing and Membership Services for Environmental Defense. I have held this position since August 1995. I am responsible for planning and directing Environmental Defense's membership services. My staff and I provide information to members, deliver member/donor acknowledgments, handle membership renewals, manage the organization's member/donor database, and plan environmental education programs. Because of my position and responsibilities, I am familiar with Environmental Defense's purpose, organization and activities, and with environmental interests and concerns of Environmental Defense members. I am also familiar with the nature and scope of Environmental Defense's membership, its membership records, and the manner in which information on members can be retrieved.

2. Environmental Defense is a national, nonprofit, membership corporation organized and existing under the laws of the State of New York. Environmental Defense's mission is to protect the environmental rights of all people, including rights to clean air and water, healthy and

nourishing food, and a flourishing ecosystem. Pursuant to this mission, Environmental Defense links science, economics, and law to create innovative, equitable, and cost-effective solutions to the most urgent environmental problems. Environmental Defense has a long history of using litigation and other lawful means to protect and improve air quality on both local and national levels.

3. Environmental Defense regularly maintains membership records that include the address of each member. These records are regularly updated to add new members, reflect address changes, and remove the names of persons who are no longer members. The records are maintained on a computer database, from which I obtained the information provided below.

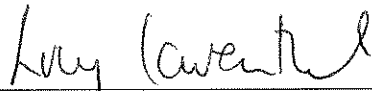
4. Environmental Defense has approximately 400,000 members nationwide, with members in each of the fifty states, the District of Columbia and Puerto Rico. Many of Environmental Defense's members reside in areas of the country that suffer from serious air pollution problems. For example, Environmental Defense has members in the City of Chicago (3,657 members), New York City (11,974 members), the City of Detroit (321 members), the District of Columbia (1,796 members), the City of Atlanta (1,416 members), the City of Houston (2,116 members), the City of Cleveland (953 members), the City of San Francisco (3,977 members), and the City of Los Angeles (4,339 members). These are just a few examples of the many cities—both large and small—that are home to Environmental Defense members.

5. Many of Environmental Defense's members live, work, play, attend school, and breathe the air in areas where air quality is affected by major industrial sources of air pollution such as power plants, factories, and refineries. Any weakening of Clean Air Act pollution control standards that apply to major industrial sources would harm these members, who would

have no choice but to breathe the additional air pollution generated in and upwind of their communities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12<sup>th</sup> day of April, 2004.

  
\_\_\_\_\_  
Lucy Lowenthal

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

DECLARATION OF DEBORAH MCGINN

Deborah McGinn declares as follows:

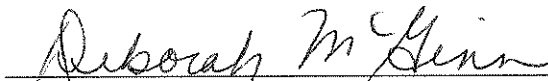
1. I am a member of Environmental Defense and have been a member for approximately three years.
2. I live in my house at 409 Beveridge Road in Ridgewood, New Jersey. Ridgewood, New Jersey is in Bergen County. I have lived in this house for 13 years.
3. I am aware of a large number of major stationary sources of air pollution in Bergen County such as power plants, refineries, and chemical plants. Some of the sources I am aware of are: Garden State Paper Company, Inc. and the Bergen County Utilities Authority Landfill. Both of these facilities are in a 10 to 15 miles radius of my home. These are just a few examples of the many large polluters operating in the Bergen County area.
4. I am very concerned about the negative health effects of breathing pollution from major industrial facilities located in the Bergen County area. In addition, I am concerned

about the impact of this pollution on my husband who has severe asthma. My husband wears a mask outside on some poor air quality days and tries not to go outside on other poor air quality days. We both garden and do yardwork, and I like to walk in the park and around my neighborhood. Neither of us can avoid breathing air pollution generated by these facilities.

5. I am aware that the EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution increases will have a negative effect on my health and that of my husband. I strongly support efforts by Environmental Defense—made on my behalf and on behalf of other affected members—to prevent these new regulations from going into effect.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9<sup>TH</sup> day of April 2004.

  
Deborah McGinn

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	
	)	

County of Allegheny	)	
	)	
Commonwealth of Pennsylvania	)	

**DECLARATION OF P. ARLENE MERCURIO**

I, P. Arlene Mercurio, hereby declare and state:

1. I am a member of Group Against Smog and Pollution, Inc., (GASP) and have been since 2001.
2. I have lived and worked in Springdale, Pennsylvania for the last five years. Springdale is a suburb of Pittsburgh. I have lived in the Greater Pittsburgh area for all of my fifty-seven years.
3. Throughout the year, I spend an average of 6-12 hours per week outside. I typically spend that time walking, visiting public parks with my dog, and maintaining the exterior of my

business. Accordingly, I cannot avoid breathing the pollution that is generated by nearby industrial sources.

4. I am deeply concerned about the level of air pollution in the Pittsburgh area. Ever since my children were born, I have been involved in environmental causes, particularly those aimed at reducing air pollution. My concern intensified when my daughter was diagnosed with liver cancer even though she had no genetic or lifestyle risk factors. I believe that the abundant air pollution in our community contributed to her illness. I am an active participant of GASP and the local Sierra Club Chapter. For example, I have hosted an educational meeting about the manner in which major sources of air pollution are permitted under the Clean Air Act's Title V program.

5. There are numerous major sources of air pollution near where I live and work. The most striking example is Reliant Energy's Cheswick power station, a coal-fired power plant located less than one mile from where I live. According to Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)), the Cheswick power plant emitted 42,000 tons of sulfur dioxide and 5,200 tons of nitrogen oxides in 1999. Scorecard further indicates that the Cheswick facility emitted more than 2.8 million pounds of suspected gastrointestinal or liver toxicants in 2001. Similarly, Scorecard indicates that the PPG Industries paint manufacturing facility, also located less than a mile from my residence, emitted 200 tons of volatile organic compounds in 1999. In addition, Scorecard indicates that in 1999 the Allegheny Ludlum Steel mill emitted 290 tons of volatile organic compounds, 540 tons of coarse particulate matter, 500 tons of nitrogen oxides, and forty-eight tons of sulfur dioxide. The steel mill is situated approximately four miles from where I live. These facilities are just several examples of the numerous power plants and industrial facilities that pollute the air in my community.

6. I am concerned about breathing harmful air pollutants from power plants, refineries, and other large polluters, and about the effect that such pollution has on my health and the health of my family.

7. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have a negative effect on my health and the health of my family. I therefore support GASP's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/27, 2004.

  
P. Arlene Mercurio



**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX) and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

County of Allegheny	)	
	)	
Commonwealth of Pennsylvania	)	

**DECLARATION OF SUZANNE SEPPI**

I, Suzanne Seppi, hereby declare and state:

1. I am the Executive Director of Group Against Smog and Pollution, Inc. (“GASP”), a nonprofit corporation organized and existing under the laws of the Commonwealth of Pennsylvania.

2. GASP is a non-profit citizens’ group in Southwestern Pennsylvania working for a healthy, sustainable environment. Founded in 1969, GASP has been a diligent watchdog, educator, litigator, and policy-maker on all environmental issues, with a focus on air quality in the Pittsburgh region. GASP actively seeks to protect the environment and public health by preventing and reducing air pollution.

3. I have been the Executive Director of GASP since January 1999. My duties as Executive Director include: fundraising, managing of mission-related projects, implementing directives from the Board of Directors, managing day-to-day membership services, and working with the Board to develop strategic directions to help sustain GASP financially and drive environmental progress. My work requires that I be familiar with GASP's purpose, organization, and activities, as well as the environmental interests and concerns of GASP supporters and board members.

4. In my capacity as the Executive Director of GASP, I have access to current information about all of GASP's members and board members, including their primary residential addresses.

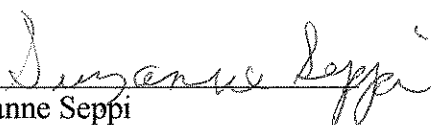
5. Based on my review of that information, I declare that GASP has 369 current members. GASP members live throughout western Pennsylvania and in Arizona, California, Colorado, Florida, New Jersey, New York, North Carolina, and Ohio.

6. GASP members reside in many areas of Pennsylvania and other states that suffer from serious air pollution problems.

7. Many of GASP's members live, work, recreate, and breathe the air in areas with major industrial sources of air pollution such as power plants, factories, and refineries. Any weakening of Clean Air Act pollution control standards that apply to major industrial sources would harm these members, who would have no choice but to breathe the additional air pollution generated in and upwind of their communities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9/27/2004.

  
\_\_\_\_\_  
Suzanne Seppi  
Executive Director  
Group Against Smog and Pollution, Inc.

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
Petitioners,	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
Respondent.	)	

County of Ingham     )  
                                  )  
State of Michigan     )

**DECLARATION OF JAMES P. CLIFT**

I, James P. Clift, hereby declare and state:

1. I am the Policy Director for the Michigan Environmental Council (“MEC”), a nonprofit corporation organized and existing under the laws of the State of Michigan.
2. I am familiar with MEC’s mission, which is to address threats to Michigan’s environment, promote alternatives to urban blight and suburban sprawl, advocate for a sustainable environment and economy, protect Michigan’s water legacy, promote cleaner energy, and work to diminish environmental impacts on children’s health. Reducing the people of Michigan’s exposure to air pollution is germane to MEC’s mission.
3. I have been the Policy Director for MEC since 1999. As Policy Director, I coordinate MEC’s work on clean energy, air quality, water protection, children’s health, and open

government. I am also involved in managing MEC's land use and transportation programs. The involvement of our members is critically important to the success of these programs.

4. In my capacity as the Policy Director for MEC, I have access to current information about all of MEC's members and board members, including their primary residential addresses.

5. Based on my review of that information, I declare that MEC has approximately 160,000 members who live throughout the state of Michigan.

6. MEC's members live, work, recreate, and breathe in areas of Michigan that are home to numerous major sources of industrial air pollution, including Detroit, Flint, and Warren.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on MAY 4, 2004.

  
\_\_\_\_\_  
James P. Clift  
Policy Director  
Michigan Environmental Council

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX) and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

County of Wayne     )  
                                  )  
State of Michigan    )

**DECLARATION OF GLADYS ANNA HOLDEN**

I, Gladys Anna Holden, hereby declare and state:

1. I am a member of the Mackinac Chapter of the Sierra Club, which is a member organization of the Michigan Environmental Council (MEC). Accordingly, I am a member of MEC and have been a member since 1984.
2. I reside in Detroit, Michigan, and have done so for the last thirty-two years. Detroit is located in Wayne County.
3. Throughout the year, I spend an average of fifteen hours per week outside. I typically spend that time traveling to and from Sierra Club and community meetings and classes at the

University of Michigan-Dearborn. Accordingly, I cannot avoid breathing the pollution that is generated by nearby industrial sources.

4. I am deeply concerned about the level of pollution in Detroit's air. As a result, I am an active participant in several committees, coalitions, and citizens groups that work to improve air quality in the Detroit area. For example, I am the conservation chairperson for the Mackinac Chapter of the Sierra Club. I sat on the Wayne County Air Quality Advisory Committee, which met every two months to review air pollution-related issues that confront the county until it was dissolved in October 2001. I have also worked with several coalitions aimed at reducing harmful emissions from local medical and solid waste incinerators, including the Michigan Environmental Justice Coalition, the Stop the Burn Campaign, and the coalition to shut down the Henry Ford Hospital incinerator. I also work with the national Health Care Without Harm campaign.


5. There are numerous major sources of air pollution near where I live. For example, Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)) indicates that in 1999 the General Motors automotive plant located here in Detroit emitted 940 tons of sulfur dioxide, 910 tons of nitrogen oxides, and 790 tons of volatile organic compounds. Similarly, Scorecard indicates that an oil refinery owned by the Marathon Oil Company emitted 2100 tons of nitrogen oxides and 370 tons of volatile organic compounds that same year. The refinery is located just south of Detroit, about ten miles upwind from where I live. I am also concerned about pollution from the Greater Detroit Resource Recovery Facility, a municipal solid waste incinerator that is permitted to emit 3.6 million pounds of regulated pollutants, and the Hamtramck Medical Waste Incinerator, which is located approximately five miles from where I live. These facilities are just several examples of the numerous industrial facilities that pollute Detroit's air.

6. I am concerned about breathing harmful air pollutants from power plants, refineries, and other large polluters, and about the effect that such pollution has on my health. According to a recent analysis of 1998-2000 health data by the Michigan Department of Community Health, asthma-related hospitalization rates in my zip code (48214) were among the highest in Detroit for children less than 14 years old and for persons aged 15-44. The rate of hospitalization for asthma for persons aged 15-44 in my zip code is as much as two to three times the rate in the rest of Wayne County (47.3-67.2 per 10,000, as compared to 21.7 per 10,000 in Wayne County). (See Michigan Department of Environmental Quality – Air Quality Division, Renewable Operating Permit Staff Report – Greater Detroit Resource Recovery Facility: SRN M4148, Attachment 4, pp. 44-45 (December 1, 2003).<sup>1</sup>

7. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have a negative effect on my health. I therefore support MEC's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/28, 2004.

  
Gladys Anna Holden

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<sup>1</sup> The Staff Report can be downloaded at:  
[http://www.deq.state.mi.us/aps/downloads/ROP/pub\\_ntce/M4148/M4148%20Staff%20Report%202012-01-03.pdf](http://www.deq.state.mi.us/aps/downloads/ROP/pub_ntce/M4148/M4148%20Staff%20Report%202012-01-03.pdf)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondents.	)	
	)	

**DECLARATION OF LINDA LOPEZ**

I, Linda Lopez, declare as follows:

1. I am the director of membership and public education at the Natural Resources Defense Council, Inc. ("NRDC"). I have been the director of membership and public education for over fifteen years.
2. My duties include supervising the preparation of materials that NRDC distributes to members and prospective members. Those materials describe NRDC and identify its mission.
3. NRDC is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.
4. NRDC's mission statement declares that "The Natural Resources Defense Council's purpose is to safeguard the Earth: its people, its plants and animals, and the natural systems on which all life depends." The mission statement goes on to declare that



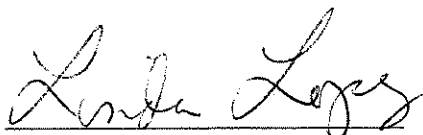
NRDC works “to restore the integrity of the elements that sustain life – air, land, and water – and to defend endangered natural places.”

5. When an individual becomes a member of NRDC, his or her current residential address is recorded in NRDC’s membership database. When a member renews his or her membership or otherwise makes a contribution to NRDC, the database entry reflecting the member’s residential address is verified or updated.

6. NRDC currently has 481,520 members. There are NRDC members residing in each of the fifty United States and in the District of Columbia and Puerto Rico.

7. Currently there are 1,811 NRDC members residing in the District of Columbia; 2,883 in Hawaii; 18,572 in Illinois; 14,112 in Michigan; 10,070 in Minnesota; 15,729 in New Jersey; 42,602 in New York; 19,537 in Pennsylvania; 23 in Puerto Rico; and 579 in South Dakota.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 23, 2004.

  
Linda Lopez

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF SUSAN MCINTOSH**

I, Susan McIntosh, declare as follows:

1. I am a member of the Natural Resources Defense Council (“NRDC”) and have been since November 19, 2002.
2. I was born on June 22, 1943, in Pittsburgh Pennsylvania. I have spent periods living elsewhere, but I currently live in Pittsburgh and have lived there for the last twenty years. The address of my residence is 4 Clarendon Place, Pittsburgh, Pennsylvania 15206. I have no plans to move.
3. I also work in Pittsburgh, at the following address: One Mellon Center, Pittsburgh, Pennsylvania 15258. I have no plans to move to a different workplace.
4. Newspaper articles and documents posted on the Web site of the U.S. Environmental Protection Agency (“EPA”) have made me aware that inhaling air pollutants such as fine particulate matter and ozone can cause a person immediate pain and impairment, permanently diminish that person’s lung function, and increase the person’s risk of developing serious illnesses and even dying prematurely. The same

documents have made me aware that the risk of suffering adverse health effects from inhaling fine particulate matter and ozone is especially high for those who exercise outside regularly. Several times a week in the spring, summer, and fall, I exercise outside in Pittsburgh by rowing on the Allegheny River, biking alongside the river, and taking long, brisk walks through the city's neighborhoods.

5. The time I have spent living in Pittsburgh and traveling around Western Pennsylvania, together with the newspaper and magazine articles I have read, have made me aware that a large percentage of the fine particulate matter and ozone in Pittsburgh's ambient air is the product of the particulate matter, sulfur dioxide, nitrogen oxides, and volatile organic compounds emitted by the hundreds of large industrial facilities located within Pittsburgh and upwind of the city in Pennsylvania, Ohio, West Virginia, Virginia, Kentucky, Indiana, Tennessee, and Illinois.

6. Newspaper articles and documents posted on the EPA Web site have made me aware that the air pollution emitted by these hundreds of facilities is largely responsible for the fact that Allegheny County, which includes Pittsburgh, has recently been designated "nonattainment" under the national ambient air quality standard for ozone, and for the fact that the county will most likely be designated "nonattainment" under the standard for fine particulate matter before the end of the year. Documents posted on the EPA Web site have made me aware that the national ambient air quality standards are set at the levels that EPA deems necessary to safeguard public health.

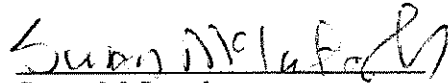
7. Newspaper and magazine articles have made me aware that, to the extent that EPA implements and enforces the New Source Review provisions of the Clean Air Act in the way that Congress intended, those provisions protect my health and welfare

from adverse impacts that otherwise would result from uncontrolled, unevaluated pollution increases at the large industrial facilities described above. The same articles have made me aware, however, that in late 2002, EPA promulgated a rule that undermines the New Source Review provisions, significantly lessening the extent to which they actually protect my health and welfare.

8. I have reviewed portions of the October 2003 joint report by the Environmental Integrity Project and the Council of State Governments/Eastern Regional Conference, entitled, "Reform or Rollback? How EPA's Changes to New Source Review Could Affect Air Pollution in 12 States." The report is available at [http://www.environmentalintegrity.org/pubs/ABSOLUTE\\_FINAL\\_EIP\\_CSG\\_Full\\_Report\\_10-21-033.pdf](http://www.environmentalintegrity.org/pubs/ABSOLUTE_FINAL_EIP_CSG_Full_Report_10-21-033.pdf). I am alarmed to learn from that report (at pages 3-2, A-14 – A-26, and A-50 – A-59) that in Pennsylvania, Illinois, and Indiana alone, just one of the weakening portions of EPA's 2002 rule allows 525 large industrial facilities to increase annual emissions of particulate matter, nitrogen oxides, sulfur dioxide, and volatile organic compounds by totals of, respectively, 24,678 tons, 146,518 tons, 185,648 tons, and 82,711 tons more than would have been allowed under the prior rules.

9. I believe that if EPA's 2002 rule is allowed to stand, the ambient air in Pittsburgh will, starting soon and for many years to come, contain significantly higher concentrations of fine particulate matter and ozone than it would contain otherwise. The direct result of those higher concentrations will be a significantly increased risk that my life will be degraded and even cut short. Therefore, I strongly support NRDC's efforts to convince a court to vacate EPA's 2002 rule.

I declare under penalty of perjury that the foregoing is true and correct. Executed  
on April 24, 2004.

  
Susan McIntosh  
Susan McIntosh

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
Petitioners,	)	
v.	)	Docket No. 02-1387 (COMPLEX)
ENVIRONMENTAL PROTECTION	)	and consolidated cases
AGENCY,	)	
Respondent.	)	

County of Cuyahoga	)
	)
State of Ohio	)

**DECLARATION OF WILLIAM M. ONDREY GRUBER**

I, William M. Ondrey Gruber, hereby declare and state:

1. I am a member of the Ohio Environmental Council (OEC) and have been for the past twelve years.
2. I reside and work in Shaker Heights, Ohio, and have resided in this community for the last eight and one-half years. Shaker Heights is a suburb of Cleveland. Previously, I lived and worked in the neighboring City of Cleveland for nine years.
3. Throughout the year, I spend an average of fifteen hours per week outside in public areas. I spend that time biking, walking, hiking, camping, swimming, and attending my child's soccer

games. Accordingly, I cannot avoid breathing the pollution that is generated by nearby industrial sources.

4. I am deeply concerned about the level of air pollution in the Cleveland area. As a member of OEC, I follow and support the organization's efforts to improve Ohio's air quality. Furthermore, having served as the chief of the Environment and Health Section for the City of Cleveland Law Department from 1989 to 1998, I am familiar with many of the air quality issues that affect the Cleveland area.

5. There are numerous major sources of air pollution near where I live and work.. For example, FirstEnergy's Lake Shore facility is a coal- and oil-fired power plant located approximately five miles from where I live. According to Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)), the Lake Shore plant emitted 1,500 tons of sulfur dioxide and 750 tons of nitrogen oxides in 1999. Similarly, Scorecard indicates that the Dominion Cleveland Thermal Energy System, a coal-fired district heating system previously owned by Cleveland Thermal Energy Corporation, emitted 12,000 tons of sulfur dioxide and 440 tons of nitrogen oxides that same year. The Dominion plant is located roughly ten miles from where I live. These facilities are just two examples of the numerous power plants and industrial facilities that contribute to air pollution in the Cleveland area.

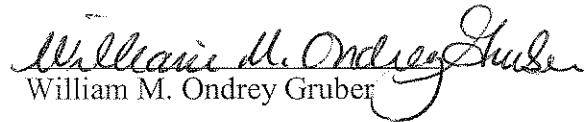
6. I am concerned about breathing harmful air pollutants from power plants, refineries, and other large polluters, and about the effect that such pollution has on my health.

7. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have

a negative effect on my health and the health of my family. I therefore support OEC's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 27, 2004.

  
William M. Ondrey Gruber



**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
Petitioners,	)	
v.	)	Docket No. 02-1387 (COMPLEX) and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
Respondent.	)	

County of Franklin    )  
                                  )  
State of Ohio            )

**DECLARATION OF SARAH HOVANEC**

I, Sarah Hovanec, hereby declare and state:

1. I am the Administrative Coordinator for The Ohio Environmental Council ("OEC"), a nonprofit corporation organized and existing under the laws of the State of Ohio. In that capacity I am familiar with OEC's mission, which is to inform, unite, and empower Ohio citizens to protect the environment and conserve natural resources. Working to reduce Ohioan's exposure to harmful air pollution is a core part of OEC's mission.
  
2. I have been the Administrative Coordinator for OEC since February 2001. My duties as Administrative Coordinator include: managing databases that contain

information on members and prospective members, organizing membership campaigns and processing membership renewals, designing OEC newsletters and publications, and working with major donors and planned giving projects. My work requires me to be familiar with OEC's purpose, organization, and activities, as well as the environmental interests and concerns of OEC members.

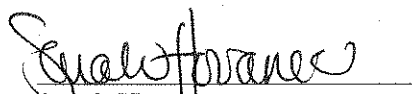
3. In my capacity as the Administrative Coordinator for OEC, I have access to current information about all of OEC's members and board members, including their primary residential addresses.

4. Based on my review of that information, I declare that OEC has more than 3000 members. Those members live throughout Ohio, as well as in Arizona, Colorado, the District of Columbia, Florida, Iowa, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, New York, Pennsylvania, Texas, Vermont, Virginia, Washington, and West Virginia.

5. OEC's members live, work, recreate, and breathe in areas of Ohio that are home to numerous major sources of industrial air pollution, including Akron, Cincinnati, Cleveland, Columbus, and Toledo.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 28, 2004.



Sarah Hovanec  
Administrative Coordinator  
The Ohio Environmental Council

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u>	)	
Petitioners,	)	Docket No. 02-1387
v.	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	(03-1016, 03-1033, 03-1036,
AGENCY,	)	03-1040, 03-1041, 03-1044,
Respondent.	)	03-1045, 03-1046, 03-1047,
	)	03-1048,03-1049, 03-1050,
	)	03-1051,03-1052, 03-1054,
	)	03-1055,03-1056, 03-1057)

County of Dutchess    )  
                                  )  
State of New York     )

**DECLARATION OF WARREN P. REISS**

I, Warren P. Reiss, hereby declare and state:

1. I am the General Counsel for Scenic Hudson, Inc., a regional non-profit environmental organization with its headquarters in Poughkeepsie, N.Y. Scenic Hudson is organized pursuant to the New York State Not-for Profit Corporation Law. Scenic Hudson was organized in 1963, and its mission is to preserve, protect and enhance the natural, historic, scenic and recreational resources of the Hudson River Valley. Scenic Hudson actively seeks to protect the environment and public health by, *inter alia*, preventing and reducing air pollution.

2. I have been with Scenic Hudson for nine years, and have been the General Counsel since July of 2000. My duties as General Counsel involve every aspect of the corporation's legal work. Included among these matters are: I oversee all environmental litigation in both State and Federal Courts, which includes matters pertaining to air and water pollution as well as project review under N.E.P.A and its State equivalent, oversee all aspects of our corporate existence, including our status as a not-for-profit corporation and our Federal tax exempt status under I.R.S. Code Section 501 (c)(3). My work requires that I be familiar with Scenic Hudson's purpose, organization, and activities, as well as the environmental interests and concerns of Scenic Hudson supporters and board members.


3. In my capacity as the General Counsel for Scenic Hudson, I have access to current information about all of Scenic Hudson's supporters and board members, including their primary residential addresses.

4. Based on my review of that information, I declare that Scenic Hudson has approximately 8,700 supporters who live in forty-seven states and the District of Columbia.

5. Scenic Hudson's supporters reside in communities throughout New York and around the country that suffer from serious air pollution problems, including the following counties in New York state: New York County, Kings County, Queens County, Richmond County, Bronx County, Dutchess County, Orange County, Putnam County, and Westchester County. Many of the industrial facilities that contribute to the air pollution in these areas are subject to the Clean Air Act's new source review program, which is administered by the United States Environmental Protection Agency (EPA).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 30, 2004.

A handwritten signature in cursive script that reads "Warren P. Reiss". The signature is written in black ink and is positioned above a horizontal line.

Warren P. Reiss  
General Counsel  
Scenic Hudson, Inc.

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX) and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	
	)	

County of Orange    )  
                                  )  
State of New York    )

**DECLARATION OF WILLIAM E. STEIDLE**

I, William E. Steidle, hereby declare and state:

1. I have worked with Scenic Hudson, Inc., for the last ten years and have been a financial supporter of the organization over the past year.
2. I reside in New Windsor, New York, and have done so for the last 32 years. I have no plans to move in the foreseeable future. I also work in New Windsor at Pine View Farm, the tree farm that I own. New Windsor is located in Orange County.
3. Throughout the year, I spend an average of 70 hours per week outside. I spend considerable time working outdoors while tending to my tree farm – work that includes mowing, spraying, and tree shearing within nine acres of Christmas trees. I also spend time off the farm

mowing and landscaping other properties. Accordingly, I cannot avoid breathing the pollution that is generated by nearby industrial sources.

4. I am deeply concerned about the level of air pollution in Orange County. In 2003, I retired from the State of New York's Department of Environmental Conservation (DEC). During the 30 years I spent at DEC, I became familiar with the various health threats posed by the air pollution emitted by major industrial facilities. I am also concerned about the negative effect that industrial air pollution has on the trees at my tree farm.

5. There are numerous major sources of air pollution near where I live and work. For example, the coal-fired Danskammer Electric Generating Plant and the oil- and gas-fired Roseton Generating Station are located in Newburgh, New York, within approximately ten miles from where I live. According to Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)), the Danskammer facility emitted 10,000 tons of sulfur dioxide and 4,700 tons of nitrogen oxides in 1999. The Roseton plant emitted 25,000 tons of sulfur dioxide and 4,400 tons of nitrogen oxides that same year. In addition, Scorecard indicates that the Revere Smelting and Refining facility emitted 760 tons of sulfur dioxide and 110 tons of nitrogen oxides in 1999. The Revere Smelting and Refining facility is located eighteen miles from my home. These facilities are just several examples of the numerous power plants and industrial facilities that contribute to air pollution in Orange County.

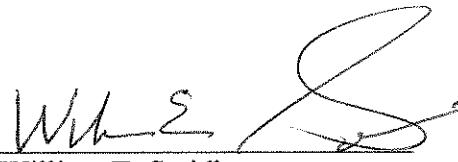
6. I am concerned about breathing harmful air pollutants from these facilities and other large polluters, and about the effect that such pollution has on my health and the health of my family.

7. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution

levels without undergoing new source review. I am very concerned that such pollution will have a negative effect on my health and the health of my family. I therefore support Scenic Hudson's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on MAY 3, 2004.

  
William E. Steidle



IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF LORETTA DUNNE**

I, Loretta Dunne, declare as follows:

1. I am a member of the Sierra Club and have been a member for approximately eight years. I live at 125 North Drexel St., Woodbury, New Jersey, which is in Gloucester County.

2. I am aware that there are a large number of major stationary sources of air pollution near where I live. For example, the Valero Refinery is only about six miles from my home. The Coastal Eagle Point oil refinery is less than three miles from my home. According to the website [www.scorecard.org](http://www.scorecard.org), other large industrial polluters located in Gloucester County include: Mobile Oil, Dupont de Nemours, Petroleum Recycling, Hercules, Inc., and Air Products & Chemicals. These are just a few examples of the many major industrial sources that pollute the air in my community.


3. I am a runner and cannot avoid breathing the air pollution generated by nearby industrial facilities. I am very concerned about the negative impact of this pollution on my

health. During the summer, when air pollution is particularly bad, I look on the internet to see whether it is a "code red" day before I go running. The government issues a code red alert whenever ground-level ozone levels are so high that the air is unhealthy to breathe. On such days, I follow the advice of public health authorities and do not engage in outdoor exercise.

4. I am aware that the EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution increases will have a negative effect on my health. I strongly support the Sierra Club's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 5 day of April, 2004.

  
\_\_\_\_\_  
Loretta Dunne

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <i>et al.</i> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX) and consolidated cases
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	
	)	

**DECLARATION OF KEVIN KOSIK**

I, Kevin Kosik, declare as follows:

1. I am the Director of Member Services and Development Operations for the Sierra Club. I work in the Sierra Club's national office in San Francisco, California. I am responsible for overseeing member/donor services, including providing informational services to members, maintaining the Sierra Club's membership database, and managing the membership renewal and membership acquisition and conservation outreach program. My work requires that I be familiar with Sierra Club's purpose, organization, and activities, as well as with the environmental interests and concerns of Sierra Club members. My work also requires me to be familiar with the Sierra Club's membership records and the manner in which information on members can be retrieved.

2. The Sierra Club is a national nonprofit membership corporation organized and existing under the laws of the State of California. The Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and

restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. As part of this mission, the Sierra Club actively seeks to protect the environment and public health by preventing and reducing air pollution.

3. The Sierra Club has approximately 700,000 members nationwide, with members in each of the fifty states and in the District of Columbia. The Sierra Club has over 60 Chapters and almost 400 local Groups across the country involved in grassroots activism, public education, and lobbying and litigation efforts on behalf of the environment. Chapters and Groups also coordinate hundreds of local and regional outdoor activities—from hiking and biking to skiing and rafting.

4. Many of Sierra Club's members reside in areas of the country that suffer from serious air pollution problems. For example, Sierra Club has members in the metropolitan areas of Chicago (approximately 8,750 members), New York City (approximately 14,750 members), Detroit (approximately 6,250 members), Washington, DC (approximately 3,250 members), Atlanta (approximately 6,750 members), Houston (approximately 5,750 members), Cleveland (approximately 4,700 members), San Francisco (approximately 10,000 members), and Los Angeles (approximately 5,000 members). These are just a few examples of the many cities—both large and small—that are home to Sierra Club members. *See*

[www.sierraclub.org/my\\_chapter/choose\\_chapter.asp](http://www.sierraclub.org/my_chapter/choose_chapter.asp).

5. Many of Sierra Club's members live, work, play, attend school, and breathe the air in areas with major industrial sources of air pollution such as power plants, factories, and refineries. Any weakening of Clean Air Act pollution control standards that apply to major industrial sources would harm these members, who would have no choice but to breathe the additional air pollution generated in and upwind of their communities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 6, 2004 in San Francisco, California.

By:   
\_\_\_\_\_  
Kevin Kosik

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

**DECLARATION OF BRUCE NILLES**

I, Bruce Nilles, declare as follows:

1. I am a member of the Sierra Club and have been a member almost continuously since June 1996. Though my membership lapsed briefly for a few months in 2002, I renewed my membership in December 2002.

2. As the Sierra Club's Senior Midwest Representative, I oversee the Sierra Club's Clean Air Enforcement Program for Illinois. I am very familiar with the threats posed to public health by air pollution from power plants, factories, and other large polluters.

3. I live and work in Chicago, Illinois. I am aware that there are a large number of major stationary sources of air pollution located in the Chicago area. For example, the Environmental Protection Agency's website, [www.epa.gov/region5/air/permits/ilonline.htm](http://www.epa.gov/region5/air/permits/ilonline.htm), lists at least 250 existing major sources located in Chicago.

4. Among the many major air pollution sources located in the Chicago area is the Fisk Generating Station, a coal-fired power plant that is located less than five miles from my home. According to the website [www.scorecard.org](http://www.scorecard.org) ("The Scorecard site"), the Fisk Generating

Station emits approximately 4,309 tons per year (“tpy”) of sulfur dioxides (“SO<sub>2</sub>”), 2,394 tpy of nitrogen oxides (“NO<sub>x</sub>”), and 166 tpy of carbon monoxide (“CO”). Another coal-fired power plant, the Crawford Generating Station, is only about eleven miles from my home. The Scorecard site reports that the Crawford Generating Station emits approximately 204 tpy of particulate matter (“PM”), 6,715 tons of SO<sub>2</sub>, 3,153 tpy of NO<sub>x</sub>, and 218 tpy of CO. Other very large polluters located near my home include the Corn Products facility (about 16 miles away, emitting approximately 252 tpy of CO, 4,504 tpy of NO<sub>x</sub>, 3,335 tpy SO<sub>2</sub>, and 797 tpy of VOCs), the ExxonMobil refinery in Joliet (about 47 miles away, emitting approximately 623 tpy of CO, 3,311 tpy of NO<sub>x</sub>, 25,738 tpy of SO<sub>2</sub>, and 948 tpy of VOCs), and the U.S. Steel Gary Works Plant (about 37 miles away).

4. I am very concerned about breathing pollution from power plants, factories, and other major industrial sources, and about the effect that such pollution has on my health. I am especially concerned because I spend a lot of time exercising outdoors. In the past six years I have run three marathons and at least two shorter road races each year. Throughout the year, I run up to fifteen miles two to four times each week. When the air is smoggy, I can feel the difference in my lungs. I try to avoid running during those times because the pollution makes it more difficult to breathe.

5. I frequently participate in permit proceedings under the Clean Air Act. Over the past year I have filed comments on behalf of the Sierra Club on at least two draft Clean Air Act permits for sources located in Illinois and plan to be filing comments on additional permits—all located in Illinois—in the near future. I am currently investigating whether several power plants in the Chicago area made changes that increased emissions without complying with the Clean Air Act’s new source review (“NSR”) requirements. I am also currently investigating whether

an existing steel-making facility in the Metro East part of the Greater St. Louis region restarted operations after being closed for two years without first complying with NSR requirements. I value, and will take advantage of, the opportunity to participate in NSR permit proceedings before any existing major source located in the Chicago area is allowed to make a change that increases emissions. I oppose any weakening in applicable NSR requirements that would deprive me of that opportunity.

6. I am also opposed to any weakening of NSR requirements because I believe that such weakened requirements would result in an increase in visibility-impairing haze in national parks and wilderness areas. I am aware that the United States Environmental Protection Agency has found that power plants and other major industrial sources of pollution contribute to haze in these areas.

7. I typically visit at least one or two national parks each year, especially those in California and Washington State. One of my favorite national parks to visit is the Kings Canyon/Sequoia National Park, which already suffers from the worst smog pollution west of the Mississippi River. Park authorities report that more than ten percent of some tree species are visibly scarred from smog pollution. Last summer, air quality in the park violated federal ozone standards on dozens of occasions. It is my understanding that most of the air pollution affecting the park comes from giant factory farms and other major sources of air pollution in the San Joaquin Valley. I took two camping trips to the Kings Canyon/Sequoia National Park in 2001, and was distressed to discover that the air in the park is unfit to breathe and that on many summer days the extraordinary vistas are veiled in smog.

8. In recent years I also have seen, and been distressed by, visible smog in the North Cascades, Grand Canyon and Yosemite National Parks. Last year, my otherwise enjoyable visit



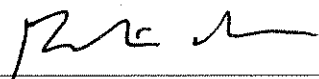
to the Indiana Dunes National Lakeshore was marred by the incredible amount of pollution that I saw billowing from the Bethlehem Steel Plant in alternating shades of brown and gray across Lake Michigan. Just last month my experience backpacking in the Grand Canyon was degraded by the visible haze I observed.

9. I intend to continue hiking and camping in national parks each year. This summer, I anticipate visiting Yosemite and the North Cascades National Parks. I consider scenic views to be one of the most enjoyable aspects of visiting a national park and I object to weakened regulations that would allow additional air pollution to obscure those views.

10. I am aware that the EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution increases will have a negative effect on my health. Likewise, I am concerned that these emission increases will occur without the public notice and hearing procedures that are a required component of NSR permit proceedings, thus depriving me of the opportunity to participate in such proceedings. Therefore, I support Sierra Club's effort to protect air quality in Chicago and elsewhere by intervening to oppose these industry lawsuits.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 5, 2004.  
Chicago, Illinois

  
\_\_\_\_\_  
Bruce Nilles



4. I am deeply concerned about the level of air pollution in Greater Atlanta. As a result, I have been heavily involved in efforts by Georgians for Clean Energy and SACE aimed at reducing emissions from several of the area's major polluters. As a board member of Georgians for Clean Energy, I was active in fundraising and public outreach, I helped define policy goals and long-term strategies, and I assisted other board members develop expertise relevant to Georgians For Clean Energy's goal to protect air and water quality in Georgia. Since Georgians for Clean Energy merged with SACE and I became a SACE board member, my responsibilities have remained largely the same. In particular, I assist SACE staff with fundraising and I work with SACE to establish policies and strategies. SACE's mission is to find positive solutions to the negative impacts of power production, which it accomplishes by advocating for clean air policies and promoting the use of renewable energy and energy-efficient practices.

5. There are numerous major sources of air pollution near where I live and work. In particular, two major power plants owned by Georgia Power are situated near Atlanta: Plant Bowen in Cartersville (approximately sixty miles from where I live) and Plant McDonough in Smyrna (approximately fifteen miles from where I live). According to a report issued in 1998 by Georgians for Clean Energy, Plant Bowen emitted 157,160 tons of sulfur dioxide and 44,964 tons of nitrogen oxides and Plant McDonough emitted 18,544 tons of sulfur dioxide and 5,542 tons of nitrogen oxides. Other examples of significant sources of air pollution include the Blue Circle Cement plant and the Owens-Brockway Glass Container factory, both of which are located here in Atlanta. According to Environmental Defense's Scorecard website ([www.scorecard.org](http://www.scorecard.org)), the Blue Circle facility emitted 2,800 tons of sulfur dioxide and 1,000 tons of nitrogen oxides in 1999, while the Owens-Brockway facility emitted 550 tons of sulfur dioxide and 490 tons of nitrogen oxides that same year. These facilities are just several

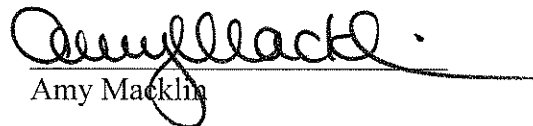
examples of the numerous power plants and industrial facilities that pollute the air in Greater Atlanta.

6. I am concerned about breathing harmful air pollutants from power plants, refineries, and other large polluters, and about the effect that such pollution has on my health.

7. I am aware that EPA has recently revised its Clean Air Act regulations to allow existing major sources of air pollution such as those located near my home to increase their pollution levels without undergoing new source review. I am very concerned that such pollution will have a negative effect on my health. I therefore support SACE's legal challenge to these new regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 27, 2004.

  
Amy Macklin

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEW YORK, <u>et al.</u> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 02-1387 (COMPLEX)
	)	and consolidated cases
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	
	)	

County of Knox	)	
	)	
State of Tennessee	)	

**DECLARATION OF KRISTINA M. SHANDS**

I, Kristina M. Shands, hereby declare and state:

1. I am the Communications Coordinator for the Southern Alliance for Clean Energy (“SACE”), a nonprofit corporation organized and existing under the laws of the State of Tennessee.
  
2. SACE is a regional organization working on energy issues in eight southeastern states -- Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. I am familiar with SACE’s mission, which is to find positive solutions to the negative impacts of power production. SACE does this by advocating for clean air policies and promoting the use of renewable energy and energy-efficient practices. Working to reduce people’s exposure to ozone pollution is germane to SACE’s mission.

3. I have been the Communications Coordinator for SACE since April 2003. My responsibilities as Communications Coordinator include: maintaining the membership and contact database, sending action alerts on pressing energy issues, assisting the Development Director with mailings and other fundraising projects, editing the newsletter and other publications, and providing communications support to all program managers. The involvement of our members is critically important to the success of SACE's programs.

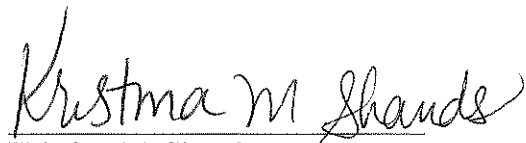
4. In my capacity as the Communications Coordinator for SACE, I have access to current information about all of SACE's members and board members, including their primary residential addresses.

5. Based on my review of that information, I declare that SACE has approximately 328 members who live in Alabama, Arkansas, Florida, Georgia, Kentucky, Maryland, Minnesota, North Carolina, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, Wisconsin and West Virginia.

6. SACE's members live, work, recreate, and breathe in communities of the Southeast that are home to numerous major sources of industrial air pollution, including Asheville, NC; Atlanta, GA; Birmingham, AL; Knoxville, TN; Memphis, TN; and Miami, FL.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 27, 2004.

  
Kristina M. Shands  
Communications Coordinator  
Southern Alliance for Clean Energy