



February 6, 2020

Chair Burke and Members of the Governing Board
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765
cob@aqmd.gov

Re: Agenda Item No. 23 – NOx BARCT Rulemaking Update

Dear Chair Burke and Members of the Board:

On behalf of Earthjustice, I submit comments on the South Coast AQMD staff's update on the REgional Clean Air Incentives Market (RECLAIM) transition to the Governing Board. As implementation of the 2016 Air Quality Management Plan (AQMP) continues, Earthjustice and our partners really appreciate the Governing Board's wise decision to shift the Nitrogen Oxide (NOx) and Sulfur Oxide (SOx) RECLAIM program to a command-and-control system. Ensuring the largest stationary sources in the South Coast Air Basin actually install state-of-the-art and life-saving pollution controls is critical to providing cleaner air to millions of breathers in the region. While significant progress has been made to date in dismantling this flawed program, including passing several life-saving command-and-control regulations, significant work remains to achieve emissions reductions.

Earthjustice and our partners have consistently been critical of the RECLAIM program over the years. Indeed, our concerns have been substantiated as the evidence shows facilities in the RECLAIM program pollute our air more than they would if a command-and-control system was in place. In fact, the South Coast AQMD staff's review of the permit database determined that "well over half of the equipment at RECLAIM facilities is currently **not at BARCT.**"¹ The presentation before the Board today shows that approximately 60% of the equipment in the RECLAIM program does not meet the Best Available Retrofit Control Technology (BARCT) standard. This means the most ozone polluted basin in the country operates a pollution control system where more than half of the equipment does not even meet standards that staff has determined are achievable when taking into account costs and technological feasibility.

Earthjustice appreciates the significant work to date to transition the RECLAIM program from a cap-and-trade program to a command-and-control regulatory structure. But we remain

¹ SCAQMD, RECLAIM Transition Plan Version 1.0, at p. vi (March 2018), *available at* <http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/regxx/draft-transition-plan-version1-final.pdf?sfvrsn=6> (emphasis added).

concerned about the deadlines slipping further on the six remaining landing rules that still need to be adopted, including the very important proposed rule 1109.1, which will achieve significant NOx emissions reductions from oil refineries. We request that the Board continue to support the expeditious transition of the RECLAIM program to a command-and-control system. This will allow breathers in the region to reap the benefits of tens of thousands of pounds of NOx emissions reductions that will flow from these rule changes.

We appreciate your consideration of these comments, and please do not hesitate to contact me if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Adriano L. Martinez". The signature is written in a cursive style with a prominent horizontal line underlining the name.

Adriano L. Martinez
Earthjustice