

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

ENGINE MANUFACTURERS  
ASSOCIATION,  
*Plaintiff-Appellant,*

v.

SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT, SCAQMD;  
WILLIAM A. BURKE, SCAQMD  
Board Chairman; NORMA J.  
GLOVER, SCAQMD Vice-  
Chairman; MICHAEL D.  
ANTONOVICH, SCAQMD Board  
Member; HAL BERNSON, SCAQMD  
Board Member; JANE W. CARNEY;  
CYNTHIA P. COAD; BEATRICE J.S.  
LAPISTOKIRTLEY; RONALD O.  
LOVERIDGE; JON D. MIKELS;  
LEONARD PAULITZ; CYNTHIA  
VERDUGO-PERALTA; S. ROY WILSON,  
SCAQMD Board Members; BARY  
R. WALLERSTEIN, SCAQMD  
Executive Officer,  
*Defendants-Appellees,*

NATURAL RESOURCES DEFENSE  
COUNCIL; COALITION FOR CLEAN  
AIR, INC.; COMMUNITIES FOR A  
BETTER ENVIRONMENT, INC.;

No. 01-56685  
D.C. No.  
CV-00-09065-FMC

PLANNING & CONSERVATION  
LEAGUE; SIERRA CLUB,  
*Defendants-Intervenors-  
Appellees,*

v.

WESTERN STATES PETROLEUM  
ASSOCIATION,  
*Plaintiff-Intervenor.*

ENGINE MANUFACTURERS  
ASSOCIATION,  
*Plaintiff,*

v.

SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT, SCAQMD;  
WILLIAM A. BURKE, SCAQMD  
Board Chairman; NORMA J.  
GLOVER, SCAQMD Vice-  
Chairman; MICHAEL D.  
ANTONOVICH, SCAQMD Board  
Member; HAL BERNSON, SCAQMD  
Board Member; JANE W. CARNEY;  
CYNTHIA P. COAD; BEATRICE J.S.  
LAPISTOKIRTLEY; RONALD O.  
LOVERIDGE; JON D. MIKELS;  
LEONARD PAULITZ; CYNTHIA  
VERDUGO-PERALTA; S. ROY WILSON,  
SCAQMD Board Members; BARY  
R. WALLERSTEIN, SCAQMD  
Executive Officer,  
*Defendants-Appellees,*

No. 01-56688

D.C. No.  
CV-00-09065-FMC  
ORDER

NATURAL RESOURCES DEFENSE  
COUNCIL; COALITION FOR CLEAN  
AIR, INC.; COMMUNITIES FOR A  
BETTER ENVIRONMENT, INC.;  
PLANNING & CONSERVATION  
LEAGUE; SIERRA CLUB,  
*Defendants-Intervenors-  
Appellees,*

v.

WESTERN STATES PETROLEUM  
ASSOCIATION,  
*Plaintiff-Intervenor-  
Appellant.*

Appeal from the United States District Court  
for the Central District of California  
Florence Marie Cooper, District Judge, Presiding

Argued and Submitted  
October 11, 2002—Pasadena, California

Filed October 24, 2002

Before: Alfred T. Goodwin, Pamela Ann Rymer, and  
M. Margaret McKeown, Circuit Judges.

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**COUNSEL**

Timothy A. French, Neal, Gerber & Eisenberg, Chicago, Illinois, for plaintiff-appellant Engine Manufacturers Association.

Jerome M. Jauffret, Teresa A. Beudet, Mayer, Brown & Platt, Los Angeles, California, for plaintiff-intervenor-appellant Western States Petroleum Association.

Fran M. Layton, Shute, Mihaly & Weinberger LLP, San Francisco, California, and Daniel P. Selmi, Los Angeles, California, for defendant-appellee South Coast Air Quality Management District.

Gail Ruderman Feuer, Natural Resources Defense Council, Inc., Los Angeles, California, for defendants-intervenors-appellees Natural Resources Defense Council, Inc., Coalition for Clean Air Inc., Communities for a Better Environment, Inc., Planning and Conservation League, and Sierra Club.

Kipp A. Coddington, Covington & Burling, Washington, D.C., for amici American Automotive Leasing Association and National Association of Fleet Administrators, Inc.

Susan L. Durbin, Deputy Attorney General, Sacramento, California, for amici State of California and State of New York.

Lawrence J. Joseph, McKenna & Cuneo, L.L.P., Washington, D.C., for amici American Road & Transportation Builders Association, American Truck Associations, Inc., and Taxicab, Limousine & Paratransit Association.

Lisa Garvin Copeland, Palm Desert, California, for amici SunLine Transit Agency and ENRG, Inc.

Gilbert P. Sperling, Counselors, Inc., Rockville, Maryland, for amici Natural Gas Vehicle Coalition and California Natural Gas Vehicle Coalition.

Eric B. Wolff, Kirkland & Ellis, Washington, D.C., for amici Alliance of Automobile Manufacturers, Inc., Association of International Automobile Manufacturers, Inc., and Truck Manufacturers Association.

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## **ORDER**

Engine Manufacturers Association and Western States Petroleum Association appeal the district court's judgment

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that the fleet rules adopted by the South Coast Air Quality Management District are not preempted by the Clean Air Act.

We affirm the decision of the district court for the reasons stated in its well-reasoned opinion, reported at *Engine Mfrs. Ass'n v. South Coast Air Quality Mgmt. Dist.*, 158 F. Supp. 2d 1107 (C.D. Cal. 2001).<sup>1</sup>

**AFFIRMED.**

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<sup>1</sup>We decline to consider Amici's arguments regarding § 246 of the Clean Air Act. "Generally, we do not consider on appeal an issue raised only by amicus." *Swan v. Peterson*, 6 F.3d 1373, 1383 (9th Cir. 1993).





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