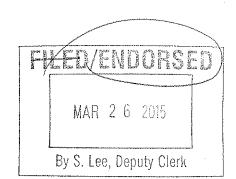
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15 16 17 18	COUNTY OF SA CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a non-profit corporation, Petitioner v. CALIFORNIA REGIONAL WATER		
15 16 17 18 19	COUNTY OF SA CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a non-profit corporation, Petitioner v. CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL		
15 16 17 18 19 20	COUNTY OF SA CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a non-profit corporation, Petitioner v. CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION, a public agency, et al.; CALIFORNIA WATER RESOURCES		
15 16 17 18 19 20 21	CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a non-profit corporation, Petitioner v. CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION, a public agency, et al.; CALIFORNIA WATER RESOURCES CONTROL BOARD, a public agency,		
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OF CALIFORNIA

ACRAMENTO

[PROPOSED] ORDER ENFORCING WRIT OF MANDATE

Case No. 34-2013-80001358-CU-WM-GDS

Date:

March 6, 2015

Hon. Michael P. Kenny, Dept. 31 Judge:

Petitioner California Sportfishing Protection Alliance's ("Petitioner") Objection to Return to Writ of Mandate came on for hearing by the Court on March 6, 2015. Petitioner appeared through its counsel, Andrew L. Packard; Respondent California Regional Water Quality Control Board, Central Valley Region ("Respondent") was represented by Nhu Q. Nguyen of the California Attorney General's Office, and Real Party In Interest Sacramento Regional County Sanitation District ("SRCSD") was represented by Brittany Lewis-Roberts of Somach Simmons & Dunn.

Having considered all the papers and evidence submitted in support of and in opposition to Petitioner's Objection, having considered all relevant authorities, and having considered the arguments of counsel, the Court ruled on the matter. A true and correct copy of the Court's March 11, 2015 Ruling On Submitted Matter: Objections to Respondent Regional Water Quality Control Board's Return to Write of Mandate is incorporated into this Order and attached hereto as Exhibit A.

The Court finds that Respondent is delaying compliance with the writ, which requires immediate compliance.

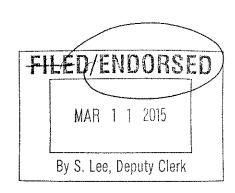
The Court finds good cause exists for ordering Respondent to comply with the terms of the writ no later than July 31, 2015. Respondent Board shall file a return no later than August 14, 2015, notifying the Court of how it has complied with the writ.

IT IS SO ORDERED.

Dated:	3/26	, 2015
	/	

MICHAEL P. KENNY

Hon. Michael P. Kenny Judge of the Sacramento Superior Court



SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

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CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a non-profit corporation,

Petitioner,

v.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION, a public agency, et al.,

Respondents.

SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, a public agency,

Real Party in Interest,

CENTRAL VALLEY CLEAN WATER ASSOCIATION,

Intervenor.

Case No. 34-2013-80001358-CU-WM-GDS

RULING ON SUBMITTED MATTER:
OBJECTIONS TO RESPONDENT
REGIONAL WATER QUALITY
CONTROL BOARD'S RETURN TO WRIT
OF MANDATE

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Background

This case involved the issuance of a wastewater discharge requirements permit, which serves as a National Pollutant Discharge Elimination System permit, to the Sacramento Regional County Sanitation District (SRCSD). The permit allowed for the discharge of treated wastewater

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from the Sacramento Regional Wastewater Treatment Plant into the Sacramento River.

The California Regional Water Quality Control Board, Central Valley Region (hereinafter, "the board"), issued the permit on December 9, 2010, through its Order No. R5-2010-0114. The permit was a renewal of a permit previously issued in 2000. On January 5, 2011, Petitioner filed a timely petition for review with the California State Water Resources Control Board pursuant to Water Code section 13320. SRCSD also filed a timely petition for review with the State Board.

The State Board consolidated the two petitions for review on March 28, 2011. Nearly six months later, on September 19, 2011, the State Board notified CSPA and SRCSD that it would review the permit on its own motion.

SRCSD filed a petition for writ of mandate in this Court on December 30, 2011, entitled Sacramento Regional County Sanitation District v. State Water Resources Control Board, Case No. 34-2011-80001028. That writ proceeding subsequently was stayed by stipulation of the parties and an order of the Court entered on January 23, 2012.

On December 4, 2012, the State Board issued Order No. WQ-2012-0013. That order approved an amended permit and dismissed the issues that CSPA had raised in its petition for review.

CSPA filed the present writ matter on January 3, 2013. The petition contained nineteen causes of action, only six of which were addressed in Petitioner's brief. Prior to the writ hearing, on April 11, 2014, the Court issued a tentative ruling dismissing with prejudice the remaining thirteen causes of action (specifically the 1st, 4th, 5th, 6th, 8th, 10th, 12th, 13th, 14th, 15th, 17th, 18th, and 19th). Of the remaining six issues, the Court granted the petition as to the following three:

1. Respondent Board failed to include freshwater aquatic life criteria for hardness-dependent metals in the permit that were calculated in the manner required by applicable regulatory law.

- 2. Respondent Board failed to establish a weekly effluent limitation for aluminum as required by applicable regulatory law.
- 3. Respondent Board granted SRCSD an exemption from the applicable Thermal Plan that was not supported by the evidence regarding potential harm to aquatic life.

On December 29, 2014, Respondent Board filed a return to the writ of mandate. In the return, Respondent Board indicated the subject permit (hereinafter, the "Permit") will expire on December 1, 2015, and Respondent Board has "tentatively" scheduled the Permit for renewal at its public meeting on December 12, 2015. In the meantime, Respondent Board anticipates receiving, "updated information from the Sacramento Regional County Sanitation District (Discharger) relating to the three issues in this writ as well as information relating to renewal of the permit in general." Respondent Board contends it is awaiting information from a temperature study that was to be completed by December 2014. Respondent Board contends this will enable it to make new determinations regarding Thermal Plan exceptions. Respondent Board also contends it is awaiting a report of waste discharge which is due by June 4, 2016 and will, "include updated effluent and receiving water datasets and modeling information. The new information will be needed to calculate a weekly limit for aluminum...and to recalculate the hardness-dependent metals criteria and effluent limitations..."

In its brief, Respondent Board does not provide an actual date when it will comply with the writ. Instead, it provides, "[i]in the next six months, as the Regional Water Board is receiving updated information, it will be able to determine definitive timelines for final compliance with the writ."

Petitioner filed an objection to the return, arguing that Respondent Board is not complying with the Court's Order. Petitioner requests the Court order Respondent Board to comply with the writ on or before its next regularly scheduled meeting on April 16 and 17, 2015 and to file a further return to the writ 60 days from the date of the order on its objections, demonstrating

Discussion

The Court is not convinced by Respondent Board's arguments that it has "proposed a practical and efficient approach to full compliance with the writ." Instead, it appears Respondent Board has improperly interpreted the writ as not requiring immediate compliance, and has decided to wait to address the Permit's deficiencies until it is most convenient for Respondent Board. This is not acceptable.

Respondent Board improperly issued the Permit. It now is delaying compliance with the writ. Although the Court provided in the writ that the Respondent Board was to file a return within 60 days and a further return every six months after the filing of the first return, setting forth what it has done to date to comply, this is not a reason to delay compliance. Respondent Board has failed to prove that it does not have the data necessary to immediately comply with the writ (even if it requires re-doing the calculations when the Permit is renewed in December).

In the Court's tentative ruling on this matter, it ordered the parties to appear at the hearing and posed several questions to Respondents and Real Party in Interest regarding the ability to implement the required changes, and the effects of implementing them earlier than Respondent Board proposed. Both Respondent and Real Party acknowledged that Respondent Board could issue an amended permit as part of its July 2015 hearing. Both Respondent and Real Party indicated that the only "side effect" of this would be a potential delay in the processing of the permit's renewal, which they anticipated would be approximately two months. Both Respondent and Real Party argued that allowing the current permit to expire and instituting the Court's findings in the new permit would be preferable to avoid a "piecemeal" process. However, this

¹ Petitioner initially suggests that the Court order compliance by Respondent's February 5 and 6, 2015 meeting. As this hearing is not taking place until March 6, 2015, these dates are now in the past.

² Respondent's Response to Objection to Writ Return, p. 1.

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1	essentially asks the Court to allow an improper permit to continue for the parties' convenience.			
2	While the Court acknowledges that the parties will have more data in December, 2015 when			
3	considering the permit's renewal, to wait until that time to address the writ is inadequate.			
4	<u>Conclusion</u>			
5	The Court orders Respondent Board to comply with the terms of the writ no later than			
6	July 31, 2015. Respondent Board shall file a return no later than August 14, 2015, notifying the			
7 8	Court of how it has complied with the writ.			
9	In accordance with Local Rule 1.06, counsel for Petitioner is directed to prepare an order			
10	enforcing the terms of the writ, incorporating this ruling as an exhibit to the order; submit them to			
11	counsel for Respondent and counsel for Real Party in Interest for approval as to form in			
12	accordance with Rule of Court 3.1312(a); and thereafter submit them to the Court for signature			
13				
14	and entry in accordance with Rule of Court 3.1312(b).			
15	DATED: March 11, 2015			
16	MICHAEL P. KENNY Judge MICHAEL P. KENNY			
17	Superior Court of California, County of Sacramento			
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CERTIFICATE OF SERVICE BY MAILING (C.C.P. Sec. 1013a(4))

I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the above-entitled **RULING ON SUBMITTED MATTER** in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at 720 9th Street, Sacramento, California.

7 ANDREW L. PACKARD BRITTANY K. LEWIS-ROBERTS, ESQ. 8 Law Offices of Andrew L. Packard THERESA A. DUNHAM, ESQ. 100 Petaluma Blvd., N., Suite 301 SOMACH SIMMONS & DUNN 9 Petaluma, CA 94952 500 Capitol Mall, Suite 1000 Sacramento, CA 94814 10 11 NHU Q. NGUYEN MELISSA A. THORME, ESQ. MATTHEW BULLOCK DOWNEY BRAND LLP 12 Deputy Attorneys General 621 Capitol Mall, 18TH Floor P.O. Box 944255 Sacramento, CA 94814-4731 13 Sacramento, CA 94244-2550 14 15 DAVID P. COUPE, Attorney IV State Water Resources Control Bd. 16 1001 I Street, B.O. Box 100 Sacramento, CA 95812 17 18 Superior Court of California. County of Sacramento 19 20

Dated: March 11, 2015

By: S. LEE

Deputy Clerk

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