

1 RUTAN & TUCKER, LLP
RICHARD MONTEVIDEO (BAR NO. 116051)
2 PETER J. HOWELL (BAR NO. 227636)
611 Anton Boulevard, Fourteenth Floor
3 Costa Mesa, California 92626-1950
Telephone: 714-641-5100
4 Facsimile: 714-546-9035

5 Attorneys for Petitioners/Plaintiffs

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

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COUNTY OF ORANGE , CENTRAL JUSTICE CENTER

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11 THE CITIES OF ARCADIA, BELLFLOWER,
CARSON, CERRITOS, CLAREMONT,
12 COMMERCE, DOWNEY, DUARTE,
GARDENA, GLENDORA, HAWAIIAN
13 GARDENS, IRWINDALE, LAWNSDALE,
MONTEREY PARK, PARAMOUNT, SANTA
14 FE SPRINGS, SIGNAL HILL, VERNON,
WALNUT, WEST COVINA, and WHITTIER,
15 municipal corporations, and BUILDING
INDUSTRY LEGAL DEFENSE
16 FOUNDATION, a non-profit corporation,

17

Petitioners/Plaintiffs,

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vs.

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THE STATE WATER RESOURCES
CONTROL BOARD; and THE CALIFORNIA
20 REGIONAL WATER QUALITY CONTROL
BOARD, LOS ANGELES REGION, and
21 DOES 1 through 50, inclusive,

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Respondents/Defendants,

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vs.

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NATURAL RESOURCES DEFENSE
COUNCIL; HEAL THE BAY; and SANTA
25 MONICA BAYKEEPER,

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Intervenors.

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Case No. 06CC02974
Honorable Thierry Patrick Colaw
Dept: CX-104

**PETITIONERS' AND RESPONDENT
BOARDS' STIPULATION RE: PROPOSED
ORDER ON INTERPRETATION OF WRIT
OF MANDATE AND JUDGMENT**

Hearing

Date: August 1, 2008
Time: 1:30 P.M.
Dept.: CX-104

Action Filed: December 9, 2005
Trial Date: February 27, 2008

1 WHEREAS, Judgment was entered in the above-referenced action on July 2, 2008, with a
2 Peremptory Writ of Mandate (“Writ”) having been issued against Respondents the State Water
3 Resources Control Board (“State Board”) and the California Regional Water Quality Control
4 Boards, Los Angeles Region (hereafter collectively “Respondent Boards”) on that same date;

5 WHEREAS, Intervenor the Natural Resources Defense Council, Heal The Bay, and the
6 Santa Monica Baykeeper (“Intervenor”) were permitted to intervene in this case as of May 1,
7 2008;

8 WHEREAS, the Writ of Mandate and Judgment (collectively “Writ/Judgment”) among
9 other matters and until such time as certain specified actions as required by the Writ have been
10 undertaken by the Respondent Boards, direct and command Respondent Boards to:

11 cease, desist and suspend all activities relating to the
12 implementation, application and/or enforcement of the Standards
13 [Water Quality Standards] in the Basin Plan, as applied or to be
14 applied to Stormwater [defined under federal law to include urban
15 runoff], whether through TMDLs [Total Maximum Daily Loads] or
16 other Basin Plan amendments or regulations, or through NPDES
17 [National Pollutant Discharge Elimination System] permits, water
18 quality policies or otherwise. . . .

19 WHEREAS, Paragraph 4 of the Writ contains the following limiting language to the above-
20 referenced language:

21 Nothing contained in this Paragraph 4 shall prevent the enforcement
22 of any term or provision in an NPDES Stormwater permit, except to
23 the extent that any such term or provision is used or designed to
24 implement or enforce (i) any element of a TMDL, or (ii) any
25 numeric limit that may be included in any such NPDES permit as a
26 means of enforcing a Standard outside of the TMDL process.

27 WHEREAS, Paragraph 2(d) of the Judgment contains nearly identical language to the
28 above-referenced limiting language of Paragraph 4 of the Writ;

WHEREAS, a dispute has arisen between the Petitioners and Respondent Boards over
whether the Writ/Judgment apply to two specific activities of the State Board: (1) whether the
Writ/Judgment preclude enrollments under existing general storm water permits; and (2) whether
the Writ/Judgment preclude the Respondent Boards’ activities related to assisting persons who
voluntarily seek oversight, cooperation, funding or input from any Respondent Board;

WHEREAS, Petitioners and Respondent Boards both contend that the scope of the

1 Writ/Judgment are clear from the plain language, but reach opposing conclusions as to whether the
2 Writ/Judgment's plain language allow enrollments under the existing general Stormwater permits,
3 with Petitioners contending that the Writ/Judgment does not preclude enrollments under the
4 existing general Stormwater permits or preclude persons from voluntarily seeking oversight or
5 grant funds from the Respondent Boards, and the Respondent Boards contending otherwise;

6 WHEREAS, the Petitioners and the Respondent Boards hereto, therefore, propose this
7 Stipulation to resolve their differences over the interpretation of the Writ/Judgment;

8 WHEREAS, this Stipulation is not intended to provide a comprehensive interpretation of
9 the Writ/Judgment, nor shall it be viewed as a comprehensive interpretation of Paragraph 4 of the
10 Writ or Paragraph 2(d) of the Judgment, nor shall it be cited or used as evidence of the meaning or
11 scope of the Writ/Judgment except with respect to the terms of paragraphs 1 and 2 of the
12 [PROPOSED] ORDER ON INTERPRETATION OF WRIT OF MANDATE AND JUDGMENT
13 attached hereto and marked as Exhibit "A."

14 WHEREAS, nothing in this Stipulation (nor the Respondents Boards' agreement to it) shall
15 be construed to limit or expand the Respondent Boards' ability to otherwise challenge the
16 Writ/Judgment on any grounds as may be permitted by law.

17 NOW, THEREFORE, Petitioners and Respondent Boards hereby agree and stipulate to the
18 terms of the [PROPOSED] ORDER ON INTERPRETATION OF WRIT OF MANDATE AND
19 JUDGMENT attached hereto and marked as Exhibit "A."

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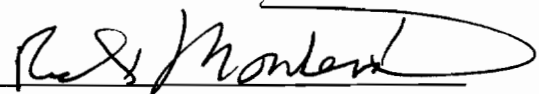
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RUTAN & TUCKER
RICHARD MONTEVIDEO
PETER J. HOWELL

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Dated: August 1, 2008.

By: 
Richard Montevideo
Attorneys for Petitioners/Plaintiffs

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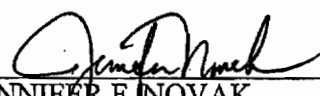
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EDMUND G. BROWN JR.
Attorney General of the State of California
MARY E. HACKENBRACHT,
Senior Assistant Attorney General
RICHARD MAGASIN,
Supervising Deputy Attorney General
JENNIFER F. NOVAK
MICHAEL W. HUGHES
Deputy Attorneys General

Dated: August 1, 2008.

By: 
JENNIFER F. NOVAK
Attorneys for Respondents

1 RUTAN & TUCKER, LLP
RICHARD MONTEVIDEO (BAR NO. 116051)
2 PETER J. HOWELL (BAR NO. 227636)
611 Anton Boulevard, Fourteenth Floor
3 Costa Mesa, California 92626-1950
Telephone: 714-641-5100
4 Facsimile: 714-546-9035

5 Attorneys for Petitioners/Plaintiffs

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
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ALAN SLATER, Clerk of the Court

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

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COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

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15 municipal corporations, and BUILDING
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CONTROL BOARD; and THE CALIFORNIA
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BOARD, LOS ANGELES REGION, and
21 DOES 1 through 50, inclusive,

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Case No. 06CC02974
Honorable Thierry Patrick Colaw
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TRC
**[PROPOSED] ORDER ON
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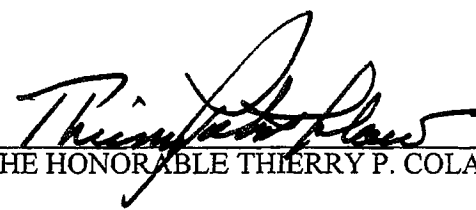
1 GOOD CAUSE APPEARING, the Ex Parte Application of Petitioners in this action for an
2 Order interpreting the Writ of Mandate issued on July 2, 2008 ("Writ") and the Judgment entered
3 on July 2, 2008 ("Judgment") (collectively, "Writ/Judgment"), is hereby GRANTED, and the
4 Court ORDERS as follows:

5 Without modifying, altering or adding to the Writ/Judgment, the Court hereby finds and
6 declares that, pursuant to the plain language in Paragraph 4 of the Writ and Paragraph 2(d) of the
7 Judgment, as well as the record and pleadings on file in this action, that the Writ/Judgment are to
8 be interpreted such that nothing therein is to:

9 1. Prevent any action to implement, apply, or enforce any term or provision in any
10 Stormwater NPDES permit (including but not limited to a municipal Stormwater NPDES Permit, a
11 General Permit for Stormwater Discharges Associated with Construction Activity, a General
12 Permit for Small Linear Underground/Overhead Projects, or an Industrial Stormwater General
13 Permit), except to the extent that any such term or provision is used or designed to implement or
14 enforce (i) any element of a TMDL, or (ii) any numeric limit that may be included in any such
15 NPDES permit as a means of enforcing a Standard outside of the TMDL process.

16 2. Prevent the Respondent Boards from coordinating or cooperating with, or assisting
17 any Petitioner or any other person or entity (collectively "Requesting Party"), who voluntarily
18 seeks the oversight, cooperation, funding or input of any Respondent Board in connection with any
19 voluntary effort by the Requesting Party to assess, investigate or attempt to further improve water
20 quality in the Los Angeles Region; no such voluntary action by a Requesting Party shall be
21 construed or in any way interpreted as being a waiver or relinquishment of any right or interest
22 provided under the Writ/Judgment.

23
24 Dated: 1 August
25 2008


THE HONORABLE THIERRY P. COLAW

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PROOF OF SERVICE BY FIRST CLASS AND ELECTRONIC MAIL

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 611 Anton Boulevard, Fourteenth Floor, Costa Mesa, California 92626-1931.

On August 1, 2008, I served on the interested parties in said action the following documents:

[PROPOSED] ORDER ON INTERPRETATION OF WRIT OF MANDATE AND JUDGMENT

Jennifer F. Novak
Michael W. Hughes
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
jennifer.novak@doj.ca.gov
michaelw.hughes@doj.ca.gov

Attorneys for Respondents

Beckman, David, Esq.
Natural Resources Defense Council, Inc.
1314 Second Street
Santa Monica, CA 90401
dbeckman@nrdc.org

Attorney for Intervenors

In the course of my employment with Rutan & Tucker, LLP, I have, through first-hand personal observation, become readily familiar with Rutan & Tucker, LLP's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice I deposited such envelope(s) in an out-box for collection by other personnel of Rutan & Tucker, LLP, and for ultimate posting and placement with the U.S. Postal Service on that same day in the ordinary course of business. If the customary business practices of Rutan & Tucker, LLP with regard to collection and processing of correspondence and mailing were followed, and I am confident that they were, such envelope(s) were posted and placed in the United States mail at Costa Mesa, California, that same date. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I also served a courtesy copy of the above-referenced document on the interested parties by electronic mail at their email address(es) listed below their mailing addresses as stated above. The transmission of the document(s) was reported as complete and without error.

Executed on August 1, 2008, at Costa Mesa, California.

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

Cathryn L. Campbell
(Type or print name)

Cathryn L. Campbell
(Signature)