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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

CALIFORNIA BUILDING INDUSTRY,
ASSOCIATION; BUILDING INDUSTRY
LEGAL DEFENSE FOUNDATION; and
CALIFORNIA BUSINESS PROPERTIES
ASSOCIATION,

Case No. 34-2009-80000338-CU-WM-GDS
Dept. 33

Petitioners,

PEREMPTORY WRIT OF MANDATE

v.

STATE WATER RESOURCES CONTROL
BOARD, and Does 1 through 50, inclusive,

Respondents.

TO RESPONDENT STATE WATER RESOURCES CONTROL BOARD:

Judgment having been entered in this proceeding, ordering that a peremptory writ of
mandate issue from this court:

You are hereby commanded, immediately upon receiving service of this writ, to:

1. Set aside those portions of the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities ("CGP") in Order 2009-0009-DWQ that impose a numeric effluent limitation ("NEL") for turbidity and a NEL for pH on Risk Level 3 construction project sites;
2. Refrain from adopting, implementing or enforcing any turbidity or pH NEL developed for the CGP pursuant to provisions of the CWA (33 U.S.C. §§ 1311(b), 1314(b), 1342(a)(1); 40 C.F.R. §§ 122.44(a)(1), 125.3(c)) unless and until:

1 a. The NEL has been developed on the basis of best conventional pollutant
2 control technology assessed in accordance with the factors specified in section 304(b)(4)(B) of
3 the CWA (33 U.S.C. § 1314(b)(4)(B); 40 C.F.R. § 125.3(d)(2)), or

4 b. The NEL is promulgated by the United States Environmental Protection
5 Agency as part of applicable effluent limitation guidelines and incorporated into the CGP in
6 accordance with CWA provisions (33 U.S.C. §§ 1311(b), 1314(b), 1342(a)(1); 40 C.F.R.
7 § 125.3(c)(1). See Administrative Record, p. 1767 (CGP, Findings, ¶ 17).)

8 Unless and until a turbidity or pH NEL is developed and adopted pursuant
9 to paragraph 2a or paragraph 2b of this writ, the receiving water monitoring requirement imposed
10 by the CGP on Risk Level 3 construction project sites discharging directly into receiving waters
11 is effectively deferred. The receiving water requirement is valid but is triggered under the CGP
12 only upon the violation of a turbidity or pH NEL by a Risk Level 3 project site. (See
13 Administrative Record, p. 1908 (CGP, Attachment E, Water Sampling and analysis, Receiving
14 Water Requirements, ¶ g).)

15 3. Upon the adoption of a turbidity NEL and/or a pH NEL pursuant to paragraph 2
16 of this writ, determine the appropriate magnitude of a Compliance Storm Event exemption, if
17 any, from the turbidity and/or pH NEL.

18 4. File a return within 60 days of receiving service of this writ, indicating what you
19 have done to comply with the writ.

20 Except as specified in this writ, the CGP is effective and enforceable. In addition,
21 the writ does not allow, compel or prohibit any NEL or any future CGP adopted pursuant to laws,
22 regulations or policies not considered and adjudicated by the court herein.

23 Dated: DEC 27 2011



DENNIS JONES,
EXECUTIVE OFFICER OF THE SUPERIOR COURT
By Christa Beebout
CHRISTA BEEBOUT, DEPUTY