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8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
9 COUNTY OF ORANGE , CENTRAL JUSTICE CENTER

10
11 THE CITIES OF ARCADIA,
12 BELLFLOWER, CARSON,
13 CERRITOS, CLAREMONT,
14 COMMERCE, DOWNEY, DUARTE,
15 GARDENA, GLENDORA, HAWAIIAN
16 GARDENS, IRWINDALE,
17 LAWDALE, MONTEREY PARK,
18 PARAMOUNT, SANTA FE SPRINGS,
19 SIGNAL HILL, VERNON, WALNUT,
20 WEST COVINA, and WHITTIER,
21 municipal corporations, and BUILDING
22 INDUSTRY LEGAL DEFENSE
23 FOUNDATION, a non-profit
24 corporation,

25 Petitioners/Plaintiffs,

26 vs.

27 THE STATE WATER RESOURCES
28 CONTROL BOARD; and THE
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD, LOS
ANGELES REGION,
Respondents/Defendants.

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

**PEREMPTORY WRIT OF
MANDATE**

TO RESPONDENTS STATE WATER RESOURCES CONTROL BOARD

1 AND THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
2 LOS ANGELES REGION, AND TO THEIR BOARD MEMBERS, OFFICERS,
3 AGENTS, ATTORNEYS, EMPLOYEES, AND TO ALL PERSONS ACTING ON
4 THEIR BEHALF, OR THROUGH OR UNDER COLOR OF THEIR
5 AUTHORITY:

6 Judgment having been entered in this action, ordering that a peremptory writ
7 of mandate be issued from this Court,

8 YOU ARE HEREBY DIRECTED AND COMMANDED, UPON RECEIPT
9 OF THIS WRIT, IN ACCORDANCE WITH YOUR RESPECTIVE
10 OBLIGATIONS UNDER THE LAW:

11 (1) To void and set aside Los Angeles Regional Water Quality Control
12 Board Resolution No. 2005-003, dated March 3, 2005, wherein the 2004 Triennial
13 Review of the Water Quality Control Plan for the Los Angeles Region (“Basin
14 Plan”) was concluded;

15 (2) During the course of reopened 2004 Triennial Review, or if
16 Respondents determine not to reopen the 2004 Triennial Review, then during the
17 course of the next scheduled triennial review of the Water Quality Standards
18 (“Standards”)¹ in the Basin Plan:

19 (a) to review and, where appropriate, revise the Standards which
20 apply or are to be applied to storm water and urban runoff (collectively
21 “Stormwater”),² in light of the factors and requirements set forth under Water
22 Code sections 13241 and 13000, including, but not limited to, the specific
23 factors set forth under Water Code sections 13241(a) – (f), and the
24 considerations provided under Water Code section 13000;

25
26 ¹ As referenced herein, the term “Water Quality Standards” or “Standards” shall
27 mean the designated beneficial uses of the waters, as well as the water quality
objectives established to achieve such designated beneficial uses.

28 ² Federal law defines “storm water” to include urban runoff, *i.e.*, “surface runoff
and drainage.” (*See* 40 C.F.R. § 122.26(b)(13).)

1 (b) to revise the Standards that apply or are to be applied to
2 Stormwater, such that no “potential” use designations for such Standards
3 remain in the Basin Plan; and

4 (c) to revise the Standards, as appropriate, during said triennial
5 review process, consistent with subsections (a) and (b) above and State and
6 federal law, after a full and fair public hearing or hearings, and before
7 concluding the triennial review.

8 (3) to cease, desist, and suspend all activities relating to the
9 implementation, application, and/or enforcement of all Standards in the Basin Plan
10 established to achieve “potential” beneficial uses, as applied or to be applied to
11 Stormwater, whether through Total Maximum Daily Loads (“TMDLs”) or other
12 Basin Plan amendments or regulations, or through National Pollutant Discharge
13 Elimination System (“NPDES”) permits, water quality policies or otherwise.

14 (4) To cease, desist and suspend all activities relating to the
15 implementation, application and/or enforcement of the Standards in the Basin Plan,
16 as applied or to be applied to Stormwater, whether through TMDLs or other Basin
17 Plan amendments or regulations, or through NPDES permits, water quality policies
18 or otherwise, until such time as Respondents have reviewed and, where appropriate,
19 revised such Standards in light of the factors and requirements provided under Water
20 Code sections 13241 and 13000, including, but not limited to, the specific factors set
21 forth under Water Code subsections 13241(a)-(f) (*e.g.*, requiring that the Standards
22 be developed to achieve water quality conditions “that could reasonably be
23 achieved,” and after a consideration of the “economic” impacts on the dischargers,
24 as well as after a consideration of the other factors referenced in Water Code section
25 13241), and in light of the considerations required under Water Code section 13000
26 (requiring the regulation of state waters “to attain the highest water quality which is
27 reasonable, considering all demands being made and to be made on those waters and
28 the total values involved, beneficial and detrimental, economic and social, tangible

1 and intangible"). Nothing contained in this Paragraph 4 shall prevent the
2 enforcement of any term or provision in an NPDES Stormwater permit, except to the
3 extent that any such term or provision is used or designed to implement or enforce
4 (i) any element of a TMDL, or (ii) any numeric limit that may be included in any
5 such NPDES permit as a means of enforcing a Standard outside of the TMDL
6 process.

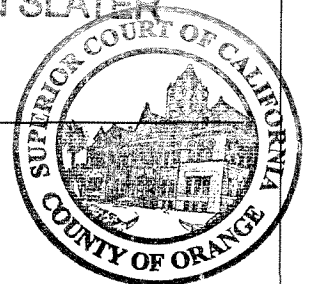
7 (5) To make and file a Return to this Writ within ninety (90) days from the
8 date Respondents have taken all action necessary to comply with paragraphs (1)-(4),
9 above.

10 WITNESS the Honorable Thierry Patrick Colaw, Judge of the Superior Court.
11 ATTEST my hand and the seal of this Court, this 2 day of JULY,
12 2008.

13 ORANGE COUNTY SUPERIOR COURT
14 CLERK  ALAN SLATER


15 Dated: 7/2/08

16 By: 



17 LET THE FOREGOING WRIT ISSUE.

18
19 Dated: 2 July 2008

20 
21 The Honorable Thierry Patrick Colaw
22 Judge of the Superior Court of California

23 RESPECTFULLY SUBMITTED BY:

24 RUTAN & TUCKER, LLP

25 By: _____
26 Richard Montevideo
27 Attorney for Petitioners/Plaintiffs