
Planning and Conservation League, et al. v. Department of Water Resources, et al., Sacramento County Superior Court No. 95CS03216,
Order Pursuant to Public Resources Code Section 21168.9,
filed June 6, 2003 (regarding Monterey Agreement)

**FILED
ENDORSED**

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SACRAMENTO COURTS
DEPT. #53

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

PLANNING AND CONSERVATION LEAGUE
a California not for profit corporation, **PLUMAS**
COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT, a California
public agency; **CITIZENS PLANNING**
ASSOCIATION OF SANTA BARBARA
COUNTY, INC., a California not for profit
corporation,

Plaintiffs and Petitioners,

v.

DEPARTMENT OF WATER RESOURCES, a
California State Agency, et al.,

Defendants and Respondents.

Case No. 95CS03216

**ORDER PURSUANT TO PUBLIC
RESOURCES CODE SECTION
21168.9**

On remand from the Third District Court of Appeal on May 20, 2003, in Department 53 of the Sacramento Superior Court, the Honorable Loren E. McMaster, presiding, this proceeding came on for a status report and joint motion. Petitioners and Plaintiffs, Planning and Conservation League, Plumas County Flood Control and Water Conservation District, and Citizens Planning Association of Santa Barbara County ("Petitioners"), appeared through Antonio Rossmann and Roger B. Moore. Respondent and Defendant, Central Coast Water Authority (CCWA), appeared through Susan F. Petrovich of the Law Firm of Hatch & Parent. Respondent and Defendant, Department of Water Resources (DWR), appeared through Deputy Attorney General Marian E. Moe.

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ORDER PURSUANT TO PUBLIC RESOURCES CODE SECTION 21168.9

1 Robert S. Draper of O'Melveny and Myers, LLP and Clifford W. Schulz appeared,
2 respectively, on behalf of the Metropolitan Water District of Southern California and
3 Dudley Ridge Water District, entities that submitted answers to the First Amended
4 Complaint subsequent to the Court of Appeal's final determination in this action and prior
5 to any further order of this Court on remand.

6 In light of the direction from the Third District Court of Appeal on remand in
7 Planning and Conservation League v. Department of Water Resources (2000) 83
8 Cal.App.4th 892, this Court hereby makes the following findings:

9 1. The parties to this lawsuit and other public agencies have engaged in
10 extensive settlement negotiations, mediated by retired Judge Daniel Weinstein of JAMS
11 Dispute Resolution, with the intent to avoid further litigation and associated expenses, to
12 provide for an effective way to cooperate in the preparation of a new environmental
13 impact report (EIR), and to make other specified improvements in the administration and
14 operation of the State Water Project.

15 2. The mediation has resulted in an executed Settlement Agreement for
16 approval by this Court, attached to this Order as Exhibit A.

17 3. DWR as lead agency has commenced the preparation of the new EIR.

18 4. As part of the Settlement Agreement, DWR and the State Water Project
19 (SWP) contractors who are signatories to the Settlement Agreement have agreed that,
20 pending DWR's filing of a return in satisfaction of the Writ of Mandate and this Court's
21 dismissal of the Writ of Mandate, they will not approve any new project or activity (as
22 defined in section VII.A of the Settlement Agreement) in reliance on the 1995
23 Environmental Impact Report for the Implementation of the Monterey Agreement.

24 5. This Order is made pursuant to the provisions of Public Resources Code
25 section 21168.9 and pursuant to this Court's equitable powers. This Court finds that the
26 actions described in this Order, including actions taken in compliance with the Writ of
27 Mandate, comprise the actions necessary to assure DWR's compliance with Division 13
28 of the Public Resources Code. This Court further finds that this Order includes only those

1 mandates necessary to achieve compliance with Division 13.

2 **THEREFORE, IT IS HEREBY ORDERED** as follows:

3 1. This Court's Final Judgment denying the petition for writ of mandate,
4 entered August 15, 1996, is reversed in accordance with the directive of the Third District
5 Court of Appeal's decision in *Planning and Conservation League v. Department of Water*
6 *Resources* (2000) 83 Cal.App.4th 892.

7 2. This Court's order granting the summary adjudication on the fifth cause of
8 action, entered June 10, 1996, is vacated.

9 3. The Settlement Agreement attached as Exhibit A is hereby approved.

10 4. A Peremptory Writ of Mandate directed to Respondents Central Coast
11 Water Authority and DWR shall issue under seal of this Court in the form attached hereto
12 as Exhibit B.

13 5. In accordance with the Settlement Agreement and this Order, pending
14 DWR's filing of the return in compliance with the Peremptory Writ of Mandate and this
15 Court's Order discharging the Writ of Mandate, DWR and CCWA shall not approve any
16 new project or activity (as defined section VII.A of the Settlement Agreement) in reliance
17 on the 1995 EIR for the Implementation of the Monterey Agreement.

18 6. In the interim, until DWR files its return in compliance with the Peremptory
19 Writ of Mandate and this Court orders discharge of the Writ of Mandate, the
20 administration and operation of the State Water Project and Kern Water Bank Lands shall
21 be conducted pursuant to the Monterey Amendments to the State Water Contracts, as
22 supplemented by the Attachment A Amendments to the State Water Contracts (as defined
23 in the Settlement Agreement) and the other terms and conditions of the Settlement
24 Agreement.

25 7. Plaintiffs and petitioners shall recover such costs and attorney's fees as
26 provided in prior court orders and in an amount as determined in the arbitration
27 procedures agreed to in the Settlement Agreement, or as otherwise agreed to by the
28 parties.

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8. Except as provided, the Peremptory Writ of Mandate shall not limit or constrain the lawful jurisdiction and discretion of DWR. This Court retains jurisdiction until DWR files a return that complies with the terms of the Writ of Mandate, and this Court issues an order discharging the Writ of Mandate.

IT IS SO ORDERED.

Dated: JUN - 6 2003, 2003

LOREN E. McMASTER
Judge of the Superior Court