

Orders Following Status Conference

The Court held a case status conference in Coordinated Special Proceeding JC 4118, STATE WATER RESOURCES CONTROL BOARD CASES, on Friday, May 4, 2001. Counsel who appeared were noted on the recorded proceedings which took place in Department 17 on May 4, 2001. Following consideration of the points discussed with counsel, the Court finds that the entry of certain orders is necessary for the orderly progression of the coordinated cases. Accordingly, pursuant to my powers as the Coordination Trial Judge, the following orders are entered and considered binding on all of the parties who appeared on May 4, 2001, in Department 17, Superior Court of California, County of Sacramento, or who have been served and noticed of the May 4, 2001 hearing but chose not to appear.

With the Court having ordered any petition amended pursuant to leave to amend following demurrer to be filed and served by May 14, 2001, the Court orders that all defendants/respondents file and serve their responsive pleadings by June 22, 2001. Defendants/Respondents who choose not to file and serve a responsive pleading by June 22, 2001, are subject to having a default judgment entered against them. If the responsive pleading is a demurrer, then the demurrer must be by noticed motion to be heard on Friday, July 27, 2001, at 9 a.m. Parties who have already appeared in this matter and did not previously demurrer are deemed to have waived their right to file a demurrer as their responsive pleading (see the court's February 26, 2001 order).

The Court does not believe that summary judgment motions are going to be helpful in expeditiously resolving these coordinated cases and hereby notifies all parties that the Court will not entertain summary judgment motions absent further specific order of the Court allowing such a motion to be filed. Any other motions which the parties desire to have the Court resolve before briefing and hearings, including but not limited to motions to intervene, are ordered to be filed and served so as to allow the motion to be heard in a regularly noticed fashion on Friday, July 27, 2001, at 9 a.m. The Court will issue tentative rulings on any motions to be heard on July 27, 2001. Such tentative rulings will be posted by noon, July 26, 2001, on web site www.saccourt.com under "Coordinated Cases" tentative rulings. The Court continues to recognize the potential cross-interests that a party may have in cases wherein said party is not formally named. Accordingly, the Court will continue to allow any party to this coordinated proceeding to brief and be heard on any issue which is timely before the Court and which that party desires to brief even absent any motion to intervene being filed.

The Court having received an express representation from counsel for petitioners in County of San Joaquin, et al. v. SWRCB, et al., San Francisco County Superior Court Case No. 311499, that the U.S. Department of Fish and

Wildlife Service has been served in that case, the San Joaquin County petitioners are relieved of any further service obligation on the U.S. Department of Fish and Wildlife Service, absent a further order of the Court specifically requiring such service. It remains clear to the Court that the U.S. Department of Fish and Wildlife Service has decided not to participate in this coordinated proceeding.

It appears to the Court that there should be no need for any formal discovery to take place in these coordinated proceedings. The matters should all be readily resolvable based on the administrative record which has been lodged with the Court. Accordingly, no formal discovery shall be undertaken by any party to this coordinated proceeding absent further specific order from the Court allowing such formal discovery.

Any of the coordinated cases which would otherwise face statutory CEQA deadlines, including but not limited to any deadlines set forth in sections 21167.4, 21167.6 and 21167.8 of the California Public Resources Code, are stayed from the applicability of said CEQA deadlines until further order of the Court.

The Court hereby notifies the parties that the Court intends to hold a further status conferences in this matter on Friday, July 27, 2001, at 1:30 p.m., in Department 17, Superior Court of California, County of Sacramento. This Court does not anticipate required any counsel to submit any further status conference statements prior to the July 27, 2001, status conference.

The following tentative briefing schedule on all merit issues raised by the ten cases is set. Petitioners/plaintiffs/real parties in interest are to have trial briefs prepared outlining all of their issues (with citations to the appropriate place in the administrative record) filed and served by August 28, 2001. Any defendants/respondents/real parties in interest wishing to be heard in opposition are to have their opposing briefs filed and served by December 7, 2001. Any reply briefs are to be filed and served by January 18, 2002. The Court intends to hold a further status conference on this matter on Friday, January 18, 2001, at 9 a.m. in Department 17, Superior Court of California, County of Sacramento.

Any objections to the form or content of this order should be filed on or before May 21, 2001, and served by way of a document clearly designated as "Objections to May 4, 2001 Orders Following Status Conference". Once the Court receives and considers the objection(s), the Court will determine whether to overrule the objection(s), granted the objection(s) in whole or in part and modify the order, or set the matter for further hearing on the objection(s). If no objections are received, then this will become the Court's final order.

May 4, 2001

Roland L. Candee, Judge
Coordination Trial Judge