

Orders Following July 27, 2001 Status Conference
Following Consideration of Objections Received

The Court held a case status conference in Coordinated Special Proceeding JC 4118, STATE WATER RESOURCES CONTROL BOARD CASES, on Friday, July 27, 2001. Following consideration of the points discussed with counsel, as well as receipt and consideration of the objections raised by various parties in "Objections to July 31, 2001 Orders Following Status Conference," 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 Coordinated Trial Judge, the following orders are entered and considered binding on all of the parties in all of the coordinated cases that remain a part of Coordinated Special Proceeding JC 4118, superceding the July 31, 2001 orders. To the extent that these orders have been modified, the objections are granted. To the extent that these orders have not been modified, the objections are overruled.

The Attorney General's Office has represented to the Court that the Golden Gate Audubon Society case petitioners have not paid their \$17,526.16 allocated cost of the administrative record. This payment was to be made forthwith under the Court's February 26, 2001 ruling on the administrative record cost allocation motions. The Court had previously ordered that "(i)f the assessed cost is not paid or relief from such payment, or portion thereof, is not obtained from the Court ..., the administrative record will not be deemed filed in those respective cases". Accordingly, the Court deems the administrative record not filed in the Golden Gate Audubon Society, et al. v. SWRCB, et al. (Alameda County Superior Court, No. 825585-9) case and no use of any part of the administrative record may be made in said case absent further order of the Court.

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 deems any prior answer(s) to the 1st Amended Complaint in County of San Joaquin, et al. v. SWRCB, et al. (San Francisco County Superior Court, No. 311499) on file herein to be answer(s) to the 2nd Amended Complaint filed in said action. Any such answer which does not specifically address the portion of the pleading added into the 2nd Amended Complaint is deemed by the Court to have denied said added portion of the pleading on information and belief. Prior orders binding on the parties in regard to the 1st Amended Complaint in the County of San Joaquin case are deemed by the Court to be binding on the parties in regard to the 2nd Amended Complaint.

Any future hearing dates shall be noticed to commence, where possible, at 9 a.m.

As both federal and non-California case, statutory and constitutional authority are readily available to the Court in the electronic media, the parties to the coordinated cases are relieved from the obligation under California Rule of Court Rule 313(f) to attach a copy to papers in which such authorities are cited.

Any citations to the administrative record in future papers filed in these coordinated cases shall cite to the administrative record by reference to "AR" as administrative record/a cite to the disc number/a cite to the pdf file number/a cite to the page. Accordingly, "(AR/1/0148/2)" would be a citation to page 2 of pdf file 0148 on disc 1 of the administrative record.

Any trial briefs, opposition briefs, and reply briefs filed in any of the coordinated cases shall have a copy in electronic format on a 3.5" disc submitted to the Court along with the original for filing.

The Court will continue to allow any party to any of the coordinated cases 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 having been filed by said party.

Petitioners/Plaintiffs in each case are to have trial briefs prepared outlining all of their issues, said briefs to be filed and served by August 28, 2001. The Court sets a 75 page limit on any such trial brief in all cases other than the Central Delta cases. In those two matters, the Petitioners shall file a single trial brief of not more than 125 pages. The State Respondents shall file and serve a single opposition brief in all of the coordinated cases responding to the trial briefs, said brief to be filed and served by December 7, 2001. The Court sets a 350 page limit on the State Respondents' opposition brief.

Despite the discussions at the status conference about how the real parties in interest would need to respond at the same time as the State Respondents, upon further reflection it appears to the Court that some duplication of effort will be avoided if the real parties in interest are not required to file briefs until after the State Respondents' opposition brief is filed and served. This should minimize any duplication of issue briefing. Any real party in interest may file a brief on issues in support or opposition to any Petitioner/Plaintiff's position or in support or opposition to any position taken by the State Respondents or concerning any unaddressed issues, said brief to be a single brief for any real party in interest no matter how many individual cases that real party in interest is actually a party to. Any real party in interest brief shall be filed and served by December 21, 2001. The Court sets a 75 page limit on any real party in interest brief.

The Petitioners/Plaintiffs are to have any reply briefs, either to the State Respondents opposition (reply of no more than 35 pages in other than the Central Delta cases) or a real party in interest brief (reply of no more than 30 pages), filed and served by January 25, 2002. The State Respondents may file a reply brief to any real party in interest brief (reply of no more than 30 pages) to be filed and served by January 25, 2002. In the Central Delta cases, Petitioners shall file and serve a single reply brief of not more than 60 pages to the State Respondents opposition.

These page limits do not include the table of contents, table of authorities, or the proof of service. Any party may apply to the court ex parte for permission to file a longer document at least 48 hours before the document is due, said application to be served by fax on the opposing party or parties contemporaneously with the filing with the Court. Said application must state with specificity reasons why the arguments cannot be made within the stated limit and just how many pages the document is proposed to be. The application must be accompanied by a written declaration that the opposing party or parties have been contacted and informed of the proposed request for relief. Any opposition to such relief must be filled with the Court at least 24 hours before the document is due, said opposition to be served by fax on the party or parties requesting relief.

The Court will not hold a further status conference on this matter as previously announced on January 18, 2002, but rather will hold a status conference on February 15, 2002, at 9 a.m. in Department 17, Superior Court of California, County of Sacramento. The Court will invite parties to submit formal Status Conference Statements, to be filed and served by February 8, 2002, addressing matters to include, but not necessarily limited to, issues the Court will request the parties to address in a order which will be posted to the Court's tentative ruling website no later than noon, February 1, 2002.

With the time for filing "Objections to July 31, 2001 Orders Following Status Conference" having expired and with the Court having received and considered objections timely filed, this is the Court's order.

August 20, 2001

Roland L. Candee, Judge
Coordination Trial Judge