

EXHIBIT A

Order granting Writ of Mandate in Asociacion de Gente Unida por el Agua, et al. v. Central Valley Regional Water Quality Control Board, filed April 16, 2013, Sacramento County Superior Court Case No. 34-2008-00003604-CU-WM-GDS

ACLC R5-2016-0531 Sweeney Submission of Evidence

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FILED
ENDORSED
APR 17 2013
Frank Teimerman
By **FRANK TEIMERMAN**
Deputy Clerk

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

ASOCIACION DE GENTE UNIDA POR EL
AGUA, a California unincorporated association,
and ENVIRONMENTAL LAW FOUNDATION,
a California nonprofit organization,

Petitioners,

v.

CENTRAL VALLEY REGIONAL WATER
QUALITY CONTROL BOARD, a California
state agency,

Respondent.

COMMUNITY ALLIANCE FOR
RESPONSIBLE ENVIRONMENTAL
STEWARDSHIP, a California corporation,

Intervenor

Case No. 34-2008-00003604-CU-WM-
GDS
(Related Case No. 2008-00003603-CU-
WM-GDS)

~~PROPOSED~~ WRIT OF MANDATE

Honorable Timothy M. Frawley
Dept. 29

BY FAX

RECEIVED
APR 17 2013
CIVIL

[Proposed] Writ of Mandate

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To Defendant/Respondent Central Valley Regional Water Quality Control Board:

YOU ARE HEREBY COMMANDED, under seal of this Court, to do the following:

1. Set aside the Waste Discharge Requirements General Order for Existing Milk Cow Diaries (Order No. R5-2007-0035) and reissue the permit only after application of, and compliance with, the State's anti-degradation policy (Resolution No. 68-16), as interpreted by the Court of Appeal in its opinion, including, without limitation, adequate findings that any allowed discharges to high quality water:

- a. Will be consistent with maximum benefit to the people of the State;
- b. Will not unreasonably affect present and anticipated beneficial use of the affected waters;
- c. Will not result in water quality less than that prescribed in applicable water quality objectives; and
- d. That waste-discharging activities will be required to use the best practicable treatment or control of the discharge necessary to assure that:
 - i. A pollution or nuisance will not occur, and
 - ii. The highest water quality consistent with the maximum benefit to the people of the State will be maintained.

2. The writ further commands Defendant/Respondent to make and file a Return within 180 days, setting forth what they have done to comply.

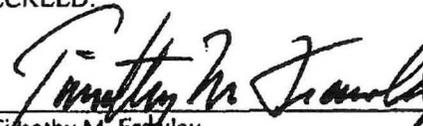
3. Plaintiffs/Petitioners shall recover their costs on appeal in the amount of \$3,485.63, as reflected in the Notice of Amended Costs on Appeal, filed February 22, 2013.

4. The Court retains jurisdiction to consider any motions for an award of attorneys' fees.

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IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: April 17, 2013


Timothy M. Fravelley
Judge of the Superior Court of California
County of Sacramento



APPROVED AS TO FORM:

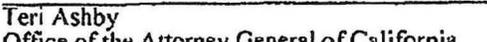
Date: _____


Laurel Firestone
Community Water Center
Attorney for Petitioners Asociacion De Gente Unida
El Agua and Environmental Law Foundation

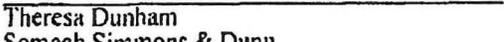
Date: _____


Lynne Saxton
Saxton & Associates
Attorney for Petitioners Asociacion De Gente Unida
El Agua and Environmental Law Foundation

Date: _____


Teri Ashby
Office of the Attorney General of California
Attorney for Respondent Central Valley Regional
Water Quality Control Board

Date: _____


Theresa Dunham
Somach Simmons & Dunn
Attorney for Intervenor Community Alliance for
Responsible Environmental Stewardship

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IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: _____

Timothy M. Frawley
Judge of the Superior Court of California
County of Sacramento

APPROVED AS TO FORM:

Date: _____

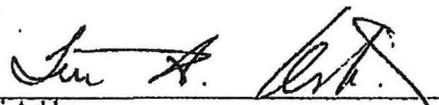
Laurel Firestone
Community Water Center
Attorney for Petitioners Asociacion De Gente Unida
El Agua and Environmental Law Foundation

Date: 4/8/2013



Lynne Saxton
Saxton & Associates
Attorney for Petitioners Asociacion De Gente Unida
El Agua and Environmental Law Foundation

Date: 4/9/13



Teri Ashby
Office of the Attorney General of California
Attorney for Respondent Central Valley Regional
Water Quality Control Board

Date: _____

Theresa Dunham
Somach Simmons & Dunn
Attorney for Intervenor Community Alliance for
Responsible Environmental Stewardship

Exhibit A



SOMACH SIMMONS & DUNN
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814
OFFICE: 916-449-7979 FAX: 916-449-8199
SOMACHLAW.COM

April 9, 2013

Via Email and First Class U.S. Mail

Lynne Saxton, Esq.
Saxton & Associates
912 Cole Street, Suite 140
San Francisco, CA 94117
lynne@saxtonlegal.com

Re: *Asociacion de Genre Unida Por El Agua, et al. v. Central Valley Regional Water Quality Control Bd.*, Sacramento Superior Court Case No. 34-2008-00003604-CU-WM-GDS
[Proposed] Writ of Mandate

Dear Ms. Saxton:

Thank you for providing the [Proposed] Writ of Mandate in the aforementioned case as directed by the Judgment After Remittitur issued by the Honorable Timothy M. Frawley on March 27, 2013. Pursuant to our conversation this afternoon, please consider this letter in response to the [Proposed] Writ of Mandate.

In accordance with Rule 3.1312 of the California Rules of Court, and on behalf of my client Community Alliance for Responsible Environmental Stewardship, I hereby provide my approval of the [Proposed] Writ of Mandate with the understanding that the reference to "discharges to high quality water" on page 2, line 7, is intended to qualify each of the following sub-paragraphs, including paragraph d with respect to reference to "waste-discharging activities" that "will be required to use best practicable treatment or control."

With that understanding, my signature page is enclosed for the Court. If my understanding is not correct, please consider this letter to constitute our disapproval. In that case, our disapproval would be based on the fact that the [Proposed] Writ of Mandate would then be inconsistent with Resolution No. 68-16, the Third Appellate District's opinion, and the Judgment After Remittitur. All findings in this matter need to be with respect to high quality waters, including findings regarding waste-discharging activities that will be required to use best practicable treatment or control. The [Proposed] Writ of Mandate must reflect this accordingly.

Lynne Saxton, Esq.
Re: AGUA v. RWQCB
April 9, 2013
Page 2

Thank you for your consideration.

Very truly yours,


Theresa A. Dunham

Enc.

cc (via email only): Teri H. Ashby, Esq. (Teri.Ashby@doj.ca.gov)
Laurel Firestone, Esq. (laurel.firestone@communitywatercenter.org)
Lori Okun, Esq. (lokun@waterboards.ca.gov)
Patrick Pulupa, Esq. (ppulupa@waterboards.ca.gov)
James Wheaton, Esq. (wheaton@envirolaw.org)

TAD:cr

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IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: _____

Timothy M. Frawley
Judge of the Superior Court of California
County of Sacramento

APPROVED AS TO FORM:

Date: _____

Laurel Firestone
Community Water Center
Attorney for Petitioners Asociacion De Gente Unida
El Agua and Environmental Law Foundation



Date: 4/8/2013

Lynne Saxton
Saxton & Associates
Attorney for Petitioners Asociacion De Gente Unida
El Agua and Environmental Law Foundation

Date: _____

Teri Ashby
Office of the Attorney General of California
Attorney for Respondent Central Valley Regional
Water Quality Control Board



Date: 4-9-13

Theresa Dunham
Somach Simmons & Dunn
Attorney for Intervenor Community Alliance for
Responsible Environmental Stewardship

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PROOF OF SERVICE

I, Nicole Feliciano, hereby declare:

I am over the age of 18 years and am not a party to this action. I am employed in the county of Alameda. My business address is Environmental Law Foundation, 1736 Franklin Street, Ninth Floor, Oakland, CA 94612.

On April 11, 2013, I caused to be served the attached:

[PROPOSED] WRIT OF MANDATE

X **BY MAIL.** I caused the above identified document(s) addressed to the party(ies) listed below to be deposited for collection at the Public Interest Law Offices or a certified United States Postal Service box following the regular practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service on this day.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed at Oakland, California on April 11, 2013.



Nicole Feliciano
DECLARANT

[PROPOSED] WRIT OF MANDATE

Service List

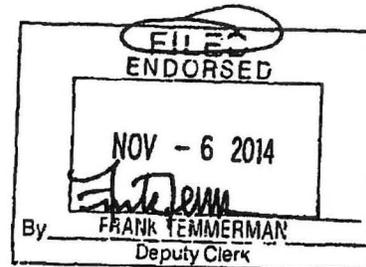
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<p>Lynne Saxton Saxton & Associates 912 Cole Street, #140 San Francisco, California 94117 Telephone: (415) 317-6713 Email: lynne@saxtonlegal.com</p>	<p><i>Attorney for Petitioners AGUA, ELF</i></p>
<p>Teri H. Ashby Attorney General of California Office of the Attorney General 1300 "I" Street Sacramento, CA 95814-2919 Tel: (916) 327-4254 Fax: (916) 327-2319 teri.ashby@doj.ca.gov</p>	<p><i>Attorney for Respondent California Regional Water Quality Control Board, Central Valley Region</i></p>
<p>Thomas Freeman Eric E. Bronson Gary S. Lincenberg Bird, Marella, Boxer, Wolpert, Nessim, Drooks & Lincenberg, P.C. 1875 Century Park East, 23rd Floor Los Angeles, California 90067-2561 Tel: (310) 201-2100 Fax: (310) 201-2110 trf@birdmarella.com eb@birdmarella.com gsl@birdmarella.com</p>	<p><i>Attorney for Intervenor CARES</i></p>
<p>Theresa A. Dunham Somach Simmons & Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 Telephone: (916) 446-7979 Facsimile: (916)446-8199 tdunham@somachlaw.com</p>	<p><i>Attorney for Intervenor CARES</i></p>
<p>Laurel Firestone (SBN 234236) Rose Francis (SBN 248521) COMMUNITY WATER CENTER 311 W. Murray Ave. Visalia, CA 93291 Tel: 559-733-0219 Fax: 559-733-8219 laurel.firestone@communitywatercenter.org rose.francis@communitywatercenter.org</p>	<p><i>Attorneys for Petitioners AGUA</i></p>

EXHIBIT B

Order to Stay Proceedings filed November 6, 2014 in Case No. No. 34-2008-
34-2008-00003604CU-WM-GDS

ACLC R5-2016-0531 Sweeney Submission of Evidence



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James Wheaton (State Bar No. 115230)
Nathaniel Kane (State Bar No. 279394)
Lowell Chow (State Bar No. 273856)
ENVIRONMENTAL LAW FOUNDATION
1736 Franklin Street, 9th Floor
Oakland, CA 94612
Tel: (510) 208-4555
Fax: (510) 208-4562
Email: wheaton@envirolaw.org, nkane@envirolaw.org, lchow@envirolaw.org

Attorneys for Petitioners Environmental Law Foundation and
Asociacion de Gente Unida por el Agua

Additional counsel on next page

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

ASOCIACION DE GENTE UNIDA POR EL
AGUA, a California unincorporated association,
and ENVIRONMENTAL LAW FOUNDATION,
a California nonprofit organization,

Petitioners,

v.

CENTRAL VALLEY REGIONAL WATER
QUALITY CONTROL BOARD, a California
state agency,

Respondent.

COMMUNITY ALLIANCE FOR
RESPONSIBLE ENVIRONMENTAL
STEWARDSHIP, a California corporation,

Intervenor

Case No. 2008-00003604-CU-WM-GDS
(Related Case No. 2008-00003603-CU-
WM-GDS)

~~PROPOSED~~ ORDER TO STAY
PROCEEDINGS

Hon. Timothy M. Frawley
Dept. 29

BY FAX

1 Additional counsel:

2 Lynne R. Saxton (State Bar No. 226210)
3 SAXTON & ASSOCIATES
4 912 Cole Street, Ste. 140
5 San Francisco, CA 94117
6 Tel: (415) 317-6713
7 Email: lynne@saxtonlegal.com
8 Attorneys for Petitioners Environmental Law Foundation and
9 Asociacion de Gente Unida por el Agua

10 Laurel Firestone (State Bar No. 234236)
11 COMMUNITY WATER CENTER
12 909 12th Street, Suite 200
13 Sacramento, CA 95814
14 Tel. (559) 789-7245
15 Fax (916) 706-2731
16 E-mail: laurel.firestone@communitywatercenter.org
17 Attorney for Petitioner Asociacion de Gente Unida por el Agua

18 Phoebe Seaton (State Bar No. 238273)
19 LEADERSHIP COUNSEL FOR JUSTICE AND ACCOUNTABILITY
20 764 P Street, Suite 12
21 Fresno, CA 93721
22 Telephone: (559) 369-2790
23 Email: pseaton@leadershipcounsel.org
24 Attorney for Petitioner Asociacion de Gente Unida por el Agua
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1 WHEREAS, on April 17, 2013, the Court issued a Writ of Mandate directing Respondent Central
2 Valley Regional Water Quality Control Board ("Regional Board") to set aside its Waste Discharge
3 Requirements General Order for Existing Milk Cow Dairies (Order No. R5-2007-0035) ("the
4 Permit"), and

5
6 WHEREAS, the Writ of Mandate directed the Regional Board to reissue the Permit only after
7 application of, and compliance with, the State's anti-degradation policy as interpreted by the Court
8 of Appeal in its decision in *Asociacion de Gente Unida por el Agua v. Central Valley Regional*
9 *Water Quality Control Board* (2012) 20 Cal.App.4th 1244, and

10
11 WHEREAS, the Court directed the Regional Board to reissue the permit only after including,
12 without limitation, adequate findings that any allowed discharges to high quality water (1) will be
13 consistent with the maximum benefit to the people of the State, (2) will not unreasonably affect
14 present and anticipated beneficial use of the affected waters, (3) will not result in water quality
15 less than that prescribed in applicable water quality objectives, (4) that waste-discharging
16 activities will be required to use the best practicable treatment or control of the discharge
17 necessary to assure that (a) a pollution or nuisance will not occur, and (b) the highest water quality
18 consistent with the maximum benefit to the people of the State will be maintained, and

19
20 WHEREAS, the Writ of Mandate further commanded the Regional Board to file a Return within
21 180 days, and

22
23 WHEREAS, on October 3, 2013, the Regional Board rescinded the Permit and issued Order R5-
24 2013-0122, Reissued Waste Discharge Requirements General Order For Existing Milk Cow
25 Dairies ("General Order"), and

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1 WHEREAS, on October 11, 2013, the Regional Board filed a Return to the Writ of Mandate .
2 indicating that it had rescinded the Permit and adopted the General Order, and
3

4 WHEREAS, on November 4, 2013, Petitioners Asociacion de Gente Unida por el Agua
5 (“AGUA”) and Environmental Law Foundation (“ELF”) (collectively referred to hereafter as
6 “Petitioners”) filed a Response to the Return to the Writ of Mandate, contending that the General
7 Order does not comply with the Writ of Mandate because it (1) allows continued degradation,
8 pollution, and/or nuisance, (2) does not require Best Practical Treatment and Control for existing
9 manure ponds, and (3) fails to conduct the required antidegradation analysis because it fails to
10 analyze any of the costs—whether economic or social, both tangible and intangible—of
11 degradation to the population at large, especially those in communities most impacted by
12 degradation, pollution and nuisance, and instead focuses solely on cost savings to the regulated
13 industry by not requiring measures to stop the pollution, and
14

15 WHEREAS, on November 5, 2013, Petitioners filed a petition to the State Water Resources
16 Control Board (“State Board”) under Water Code § 13320 and California Code of Regulations,
17 title 23, §§ 2050-68 challenging the General Order as adopted by the Respondents, which included
18 among other issues, the three issues raised above, and
19

20 WHEREAS, Petitioners’ Response to the Return to the Writ of Mandate asked the Court to stay
21 any further action on the Regional Board’s return until the completion of administrative
22 procedures before the State Board, and
23

24 WHEREAS, Petitioners stated that if the State Board corrected the perceived deficiencies,
25 Petitioners would so inform the Court and the case could be terminated and further stated that if
26 the State Board does not correct the perceived deficiencies in the General Order, the Petitioners
27
28

1 would seek a further order from the Court, and

2

3 WHEREAS, on November 22, 2013, Intervenors Community Alliance for Responsible
4 Environmental Stewardship ("CARES") filed a Reply to Petitioner's Response to the Return to the
5 Writ of Mandate urging the Court to accept the Return and discharge the Writ, and

6

7 WHEREAS, on May 14, 2014, the Court issued a Case Management Order setting a Case
8 Management Conference for October 10, 2014, and

9

10 WHEREAS, on October 10, 2014, the Court held a Case Management Conference in Department
11 29, having heard argument from all parties and good cause appearing,

12

13 IT IS ORDERED that this case and its proceedings to determine the adequacy of the Regional
14 Board's Return to Writ of Mandate be stayed until such time as the State Board has issued a
15 decision or an order of dismissal on the petition filed before the State Board by Petitioners, or until
16 further order of this Court.

17

18 IT IS FURTHER ORDERED that Petitioners shall serve and file notice of the State Board's
19 decision promptly after receipt, which filing shall lift the stay. The Court will set a further Case
20 Management Conference thereafter.

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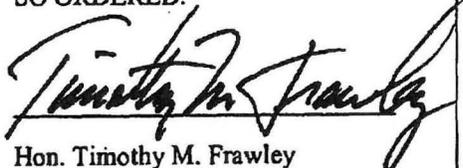
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Dated: Nov. 6, 2014

SO ORDERED:


Hon. Timothy M. Frawley

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Approved as to form:



Nathaniel Kane
Environmental Law Foundation
Attorneys for Petitioners Asociacion
de Gente Unida por el Agua and
Environmental Law Foundation

Teri H. Ashby
Attorney General of California
Office of the Attorney General
Attorneys for Respondent California
Regional Water Quality Control
Board, Central Valley Region

Theresa A. Dunham
Somach Simmons & Dunn
Attorneys for Intervenor CARES

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Approved as to form:



Nathaniel Kane
Environmental Law Foundation
Attorneys for Petitioners Asociacion
de Gente Unida por el Agua and
Environmental Law Foundation



Teri H. Ashby
Attorney General of California
Office of the Attorney General
Attorneys for Respondent California
Regional Water Quality Control
Board, Central Valley Region

Theresa A. Dunham
Somach Simmons & Dunn
Attorneys for Intervenor CARES

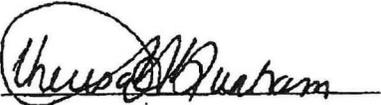
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Approved as to form:



Nathaniel Kane
Environmental Law Foundation
Attorneys for Petitioners Asociacion
de Gente Unida por el Agua and
Environmental Law Foundation

Teri H. Ashby
Attorney General of California
Office of the Attorney General
Attorneys for Respondent California
Regional Water Quality Control
Board, Central Valley Region



Theresa A. Dunham
Somach Simmons & Dunn
Attorneys for Intervenor CARES

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PROOF OF SERVICE

I, Nicole Feliciano, hereby declare:

I am over the age of 18 years and am not a party to this action. I am employed in the county of Alameda. My business address is 1736 Franklin Street, Ninth Floor, Oakland, CA 94612.

On November 3, 2014, I caused to be served the attached:

[PROPOSED] ORDER TO STAY PROCEEDINGS

BY MAIL. I caused the above identified document(s) addressed to the party(ies) listed below to be deposited for collection at the Public Interest Law Offices or a certified United States Postal Service box following the regular practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service on this day.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed at Oakland, California on November 3, 2014.



Nicole Feliciano
DECLARANT

Service List

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<p>Lynne Saxton Saxton & Associates 912 Cole Street, #140 San Francisco, California 94117 Telephone: (415) 317-6713 lynne@saxtonlegal.com</p>	<p><i>Attorney for Petitioners AGUA, ELF</i></p>
<p>Teri H. Ashby Attorney General of California Office of the Attorney General 1300 "I" Street Sacramento, CA 95814-2919 Tel: (916) 327-4254 Fax: (916) 327-2319 teri.ashby@doj.ca.gov</p>	<p><i>Attorney for Respondent California Regional Water Quality Control Board, Central Valley Region</i></p>
<p>Theresa A. Dunham Somach Simmons & Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 Telephone: (916) 446-7979 Facsimile: (916)446-8199 tdunham@somachlaw.com</p>	<p><i>Attorney for Intervenor CARES</i></p>
<p>Laurel Firestone COMMUNITY WATER CENTER 909 12th Street, Suite 200 Sacramento, CA 95814 Tel. (559) 789-7245 Fax (916) 706-2731 laurel.firestone@communitywatercenter.org</p>	<p><i>Attorney for Petitioners AGUA</i></p>
<p>Phoebe Seaton Leadership Counsel for Justice and Accountability 764 P Street, Suite 12 Fresno, CA 93721 Telephone: (559) 369-2790 pseaton@leadershipcounsel.org</p>	<p><i>Attorney for Petitioners AGUA</i></p>

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GD330 COURT HOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY