

COPY

1 ELLISON FOLK (State Bar No. 149232)
2 LISA T. BELENKY (State Bar No. 203225)
3 SHUTE, MIHALY & WEINBERGER LLP
4 396 Hayes Street
5 San Francisco, CA 94102
6 (415) 552-7272

7 Attorneys for Petitioners/Plaintiffs
8 ENVIRONMENTAL PROTECTION INFORMATION
9 CENTER, DESERT CITIZENS AGAINST POLLUTION

10 ANNE E. SIMON (State Bar No. 168532)
11 COMMUNITIES FOR A BETTER ENVIRONMENT
12 1611 Telegraph Avenue, #450
13 Oakland, CA 94612
14 Tel. (510) 302-0430

15 Attorneys for Petitioner
16 COMMUNITIES FOR A BETTER ENVIRONMENT

17 LAW OFFICES OF SHARON E. DUGGAN
18 SHARON E. DUGGAN (State Bar No. 105108)
19 2070 Allston Way, Suite 300
20 Berkeley, CA 94704
21 Tel. (510) 647-1904

22 Attorney for Petitioner/Plaintiff
23 ENVIRONMENTAL PROTECTION
24 INFORMATION CENTER

25 SUPERIOR COURT OF THE STATE OF CALIFORNIA
26 COUNTY OF SACRAMENTO

27 COMMUNITIES FOR A BETTER
28 ENVIRONMENT; ENVIRONMENTAL
PROTECTION INFORMATION CENTER,
DESERT CITIZENS AGAINST
POLLUTION,

Petitioners/Plaintiffs

v.

CALIFORNIA RESOURCES AGENCY,

Respondent/Defendant

CALIFORNIA BUILDING INDUSTRY
ASSOCIATION,

Intervenors.

Case No. 00CS00300

~~PROPOSED~~ JUDGMENT

Honorable Ronald B. Robie

Action Filed: February 16, 2000

ENDORSED
MAY 18 2000
By M. FRANCO, Deputy

~~PROPOSED~~ JUDGMENT
Case No. 00CS00300

000276

1 The hearing on the merits of the Second Amended Petition for Writ of
2 Mandate and Complaint for Declaratory Relief filed by petitioners and plaintiffs
3 Communities for a Better Environment, Environmental Protection Information Center,
4 and Desert Citizens Against Pollution ("petitioners") was held on April 13, 2001 in
5 Department 41 of the Sacramento County Superior Court before the Honorable Ronald B.
6 Robie. Ellison Folk and Lisa Belenky appeared as counsel for petitioners Environmental
7 Protection Information Center and Desert Citizens Against Pollution, Richard Drury
8 appeared as counsel for Communities for a Better Environment, Marian E. Moe appeared
9 as counsel for respondent California Resources Agency ("respondent"), and John A.
10 Henning Jr. appeared as counsel for intervenor California Building Industry Association
11 ("intervenor").

12 The Court having reviewed the record of respondent's proceedings in this
13 matter, the briefs submitted by counsel, and the arguments of counsel; the matters having
14 been submitted for decision; and the Court having granted in part and denied in part the
15 petition for writ of mandate and complaint for declaratory relief,

16 IT IS ORDERED AND ADJUDGED that :

17 1. Judgment granting the petition for writ of mandate be entered on
18 petitioners' Second Cause of Action. Judgment is so entered because the Court finds that,
19 on their face, sections 15064(h), 15130(b)(1)(B)(2), 15130(a)(4), 15064(i)(3),
20 15064(i)(4), 15152(f)(2) to the extent it incorporates 15064(i)(3) and 15064 (i)(4),
21 15152(f)(3)(C), and 15378(b)(5) of the Guidelines for implementation of the California
22 Environmental Quality Act, 14 Cal. Code Regs. § 15000, et seq. (the "CEQA
23 Guidelines") are not authorized by statute and are invalid. The Court finds that, on their
24 face, sections 15064.7, 15041, 15330, and 15332 are consistent with the authorizing
25 statute and are valid.

26 2. Judgment granting declaratory relief in part and denying it in part be
27 entered on petitioners' First Cause of Action. Judgment is so entered because the Court
28 finds and declares that, on their face, CEQA Guidelines sections 15064(h),

1 15130(b)(1)(B)(2), 15130(a)(4), 15064(i)(3), 15064(i)(4), 15152(f)(2) to the extent it
2 incorporates 15064(i)(3) and 15064 (i)(4), 15152(f)(3)(C), and 15378(b)(5) are not
3 authorized by statute and are invalid. The Court finds that, on their face, sections
4 15064.7, 15041, 15330, and 15332 are consistent with the authorizing statute and are
5 valid.

6 3. A peremptory writ of mandate directed to respondent shall issue
7 under seal of this Court, ordering respondent to initiate proceedings to set aside CEQA
8 Guidelines sections 15064(h), 15130(b)(1)(B)(2), 15130(a)(4), 15064(i)(3), 15064(i)(4),
9 15152(f)(2) to the extent it incorporates 15064(i)(3) and 15064 (i)(4), 15152(f)(3)(C), and
10 15378(b)(5) within 70 days of the date the notice of entry of judgment is served.

11 4. Respondent shall file a return to the Peremptory Writ of Mandate
12 within 30 days after completing the proceedings in paragraph 3.


13 5. Petitioners be awarded their costs of suit. The Court reserves
14 jurisdiction to award attorneys' fees pursuant to any properly and timely filed motion by
15 petitioners.

RONALD B. ROBIE

16
17 Date: MAY 18 2001

Honorable Ronald B. Robie
Judge of the Superior Court

18
19
20 APPROVED AS TO FORM:

21 
22 ELLISON FOLK
23 Attorney for Petitioners/Plaintiffs
24 Environmental Protection Information Center,
25 Desert Citizens Against Pollution

26 ANNE SIMON
27 Attorney for Petitioner/Plaintiff
28 Communities for a Better Environment

1 15130(b)(1)(B)(2), 15130(a)(4), 15064(i)(3), 15064(i)(4), 15152(f)(2) to the extent it
 2 incorporates 15064(i)(3) and 15064 (i)(4), 15152(f)(3)(C), and 15378(b)(5) are not
 3 authorized by statute and are invalid. The Court finds that, on their face, sections
 4 15064.7, 15041, 15330, and 15332 are consistent with the authorizing statute and are
 5 valid.

6 3. A peremptory writ of mandate directed to respondent shall issue
 7 under seal of this Court, ordering respondent to initiate proceedings to set aside CEQA
 8 Guidelines sections 15064(h), 15130(b)(1)(B)(2), 15130(a)(4), 15064(i)(3), 15064(i)(4),
 9 15152(f)(2) to the extent it incorporates 15064(i)(3) and 15064 (i)(4), 15152(f)(3)(C), and
 10 15378(b)(5) within 70 days of the date the notice of entry of judgment is served.

11 4. Respondent shall file a return to the Peremptory Writ of Mandate
 12 within 30 days after completing the proceedings in paragraph 3:

13 5. Petitioners be awarded their costs of suit. The Court reserves
 14 jurisdiction to award attorneys' fees pursuant to any properly and timely filed motion by
 15 petitioners.

16
 17 Date: _____

Honorable Ronald B. Robie
 Judge of the Superior Court

18
 19
 20 APPROVED AS TO FORM:

21
 22 ELLISON FOLK
 23 Attorney for Petitioners/Plaintiffs
 24 Environmental Protection Information Center,
 25 Desert Citizens Against Pollution

26 Anne E. Simon
 27 ANNE SIMON
 28 Attorney for Petitioner/Plaintiff
 Communities for a Better Environment

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPROVED AS TO FORM:

Marian E. Moë
MARIAN E. MOE
Attorney for Respondent/Defendant
California Resources Agency

APPROVED AS TO FORM:

JOHN A. HENNING JR.
Attorney for Intervenor
California Building Industry Association

P:\CEQA\MAT\LTBOSS.WPD