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9 *State Water Resources Control Board*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO

13 **CALIFORNIA MANUFACTURERS AND**
14 **TECHNOLOGY ASSOCIATION AND**
15 **SOLANO COUNTY TAXPAYERS**
ASSOCIATION,

16 Petitioners,

17 v.

18 **STATE WATER RESOURCES CONTROL**
19 **BOARD,**

20 Respondent.

Case No. 34-2014-80001850

**ANSWER TO AMENDED PETITION
FOR WRIT OF MANDATE**

Date:

Time:

Dept: 44

Judge: Hon. Christopher E. Krueger

Trial Date: n/a

Action Filed: May 29, 2014

1 **ANSWER TO AMENDED PETITION FOR WRIT OF MANDATE**

2 Respondent State Water Resources Control Board (State Water Board) answers the
3 Amended Petition for Writ of Mandate of petitioners California Manufacturers and Technology
4 Association and Solano County Taxpayers Association (Petitioners), as follows:

5 1. Lacking sufficient information and belief, denied.

6 2. Lacking sufficient information and belief, denied.

7 3. The State Water Board admits only that effective July 1, 2014, the drinking water
8 program previously administered by the Department of Public Health, including the relevant
9 provisions of the Health and Safety Code, was moved to the State Water Board, pursuant to
10 Health & Safety Code section 116271, and that the State Water Board is a public agency of the
11 state of California, created by the Legislature in Water Code, Division 1, Chapter 2, Article 3,
12 section 174, et seq., with its principal place of business in Sacramento, California. The State
13 Water Board denies the remaining allegations of this paragraph.

14 4. Admitted.

15 5. The State Water Board admits only that the Health & Safety Code speaks for itself
16 and denies the remaining allegations of this paragraph.

17 6. The State Water Board admits only that the Government Code speaks for itself and
18 denies the remaining allegations of this paragraph.

19 7. The State Water Board admits only that Health & Safety Code section 116365.5
20 speaks for itself and denies the remaining allegations of this paragraph.

21 8. Denied.

22 9. Admitted.

23 10. The State Water Board admits only that Health & Safety Code sections 116365 and
24 116365.5 speak for themselves and denies the remaining allegations of this paragraph.

25 11. The State Water Board admits only that Health & Safety Code section 116365 speaks
26 for itself and denies the remaining allegations of this paragraph.

27 12. Stricken.

28 13. Stricken.

1 14. Stricken.

2 15. Stricken.

3 16. Stricken.

4 17. Stricken.

5 18. Stricken.

6 19. The State Water Board admits only that in July 2011, OEHHA published its final
7 PHG at a level of 0.02 ppb and denies the remaining allegations of this paragraph.

8 20. Stricken.

9 21. Stricken.

10 22. Stricken.

11 23. Stricken.

12 24. Stricken.

13 25. The State Water Board admits only that in August 2013, the Department of Public
14 Health published a proposed MCL for hexavalent chromium of 10 ppb, and denies the remaining
15 allegations of this paragraph.

16 26. Denied.

17 27. The State Water Board admits only that numerous members of the public, including
18 Petitioners, submitted comments on the proposed MCL, and denies the remaining allegations of
19 this paragraph.

20 28. Denied.

21 29. Lacking sufficient information and belief, denied.

22 30. The State Water Board re-alleges and incorporates by reference paragraphs 1 through
23 29 of this Answer.

24 31. Denied.

25 32. Denied.

26 33. Denied.

27 a. Denied.

28 b. Denied.

- 1 34. Denied.
- 2 35. Denied.
- 3 36. The State Water Board re-alleges and incorporates by reference paragraphs 1 through
4 35 of this Answer.
- 5 37. Denied.
- 6 38. The State Water Board admits only that the ISOR speaks for itself and denies the
7 remaining allegations of this paragraph.
- 8 39. The State Water Board admits only that the FSOR speaks for itself and denies the
9 remaining allegations of this paragraph.
- 10 40. Denied.
- 11 41. The State Water Board re-alleges and incorporates by reference paragraphs 1 through
12 40 of this Answer.
- 13 42. Denied.
- 14 a. Denied.
- 15 b. Denied.
- 16 c. Denied.
- 17 d. Denied.
- 18 e. Denied.
- 19 f. Denied.
- 20 g. Denied.
- 21 43. The State Water Board re-alleges and incorporates by reference paragraphs 1 through
22 42 of this Answer.
- 23 44. Denied.
- 24 45. Denied.
- 25 46. Denied.
- 26 47. The State Water Board re-alleges and incorporates by reference paragraphs 1 through
27 46 of this Answer.
- 28 48. Stricken.

1 49. Stricken.

2 50. Stricken.

3 51. Denied.

4
5 **FIRST AFFIRMATIVE DEFENSE**

6 The petition fails to state facts sufficient to constitute a cause of action.

7 **SECOND AFFIRMATIVE DEFENSE**

8 The petition is barred by the doctrine of laches.

9 **THIRD AFFIRMATIVE DEFENSE**

10 The petition is barred by the doctrine of estoppel.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 The petition is barred by the doctrine of waiver.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 The petitioner failed to exhaust available administrative remedies.

15 **SIXTH AFFIRMATIVE DEFENSE**

16 The petition is barred by the applicable statute(s) of limitations.

17 **PRAYER FOR RELIEF**

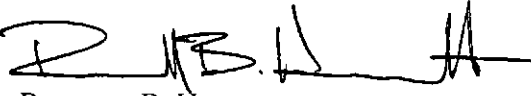
18 WHEREFORE, the State Water Board prays for judgment as follows:

- 19 1. That the Court enter judgment in favor of the State Water Board;
20 2. That the State Water Board be awarded its costs of suit incurred herein, if any; and
21 3. For such other and further relief as the Court deems just and proper.

22 Dated: June 26, 2015

Respectfully Submitted,

23 KAMALA D. HARRIS
24 Attorney General of California

25 

26 RUSSELL B. HILDRETH
27 Deputy Attorney General
28 *Attorneys for Respondent*
State Water Resources Control Board

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: ***California Manufacturers and Technology Assoc.
v. Department of Public Health***

Case No.: **Sacramento County Superior Court no. 34-2014-80001850**

I declare:

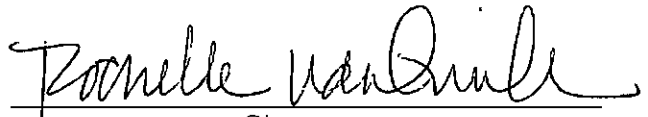
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On June 26, 2015, I served the attached **ANSWER TO AMENDED PETITION FOR WRIT OF MANDATE** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Clifton J. McFarland, Esq.
Olivia M. Wright, Esq.
DOWNEY BRAND LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
Attorneys for Petitioners

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 26, 2015, at Sacramento, California.

Rochelle Uda-Quillen
Declarant


Signature