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9 Coalition for a Safe Environment, Dr. Henry Clark, Jesse N. Marquez, Tom Frantz, Society
10 for Positive Action, Shabaka Heru, and West County Toxics Coalition.

11 (caption continued on next page)

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 IN AND FOR THE COUNTY OF SAN FRANCISCO

14 ASSOCIATION OF IRRITATED RESIDENTS, an
15 unincorporated association, CALIFORNIA
16 COMMUNITIES AGAINST TOXICS, an
17 unincorporated association, COMMUNITIES FOR A
18 BETTER ENVIRONMENT, a nonprofit corporation,
19 COALITION FOR A SAFE ENVIRONMENT, a
20 nonprofit corporation, SOCIETY FOR POSITIVE
21 ACTION, a nonprofit corporation, WEST COUNTY
22 TOXICS COALITION, a nonprofit corporation,
23 ANGELA JOHNSON MESZAROS, CAROLINE
24 FARRELL, DR. HENRY CLARK, JESSE N.
25 MARQUEZ, MARTHA DINA ARGUELLO,
26 SHABAKA HERU, TOM FRANTZ, in their
27 individual capacities,

28 Petitioners,

v.

CALIFORNIA AIR RESOURCES BOARD, MARY
D. NICHOLS, in her official capacity as Chairman of
the Board, and DANIEL SPERLIN, KEN YEAGER,
DORENE D'ADAMO, BARBARA RIORDAN,
JOHN R. BALMES, M.D., LYDIA H. KENNARD,
SANDRA BERG, RON ROBERTS, JOHN G.
TELLES, RONALD O. LOVERIDGE, in their
official capacities as members of the Board,

Respondents

CASE NO.: CP-509562

**[PROPOSED] PEREMPTORY WRIT OF
MANDATE**

Place: Department 613

Judge: Honorable Ernest Goldsmith

Action Filed: June 10, 2009

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8 Coalition for a Safe Environment, Dr. Henry Clark, Jesse N. Marquez, Tom Frantz, Society
9 for Positive Action, Shabaka Heru, and West County Toxics Coalition.

10 Adrienne Bloch, SBN 215471
11 Shana Lazerow, SBN 195491
12 COMMUNITIES FOR A BETTER ENVIRONMENT
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15 Telephone: (510) 302-0430
16 Fax: (510) 302-0437

17 Maya Golden-Krasner, SBN 217557
18 COMMUNITIES FOR A BETTER ENVIRONMENT
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20 Huntington Park, CA 90255
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23 Attorneys for Petitioner Communities for a Better Environment

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27 South Pasadena, California 91030
28 Telephone: (323) 229-1145
Fax: (310) 878-0116

Attorneys for Petitioners California Communities Against Toxics, Caroline Farrell, Martha
Dina Arguello

1 Judgment having been entered in this proceeding, ordering that a peremptory writ of
2 mandate be issued from this Court,

3 IT IS ORDERED that, immediately on service of this writ, Respondents, CALIFORNIA AIR
4 RESOURCES BOARD, MARY D. NICHOLS, in her official capacity as Chairman of the
5 Board, and DANIEL SPERLING, KEN YEAGER, DORENE D'ADAMO, BARBARA
6 RIORDAN, JOHN R. BALMES, M.D., LYDIA H. KENNARD, SANDRA BERG, RON
7 ROBERTS, JOHN G. TELLES, and RONALD O. LOVERIDGE, in their official capacities
8 as members of the Board:

- 9 1. **Set aside** Board Resolution 08-47 adopting and approving the *Climate Change Scoping*
10 *Plan* to Reduce Greenhouse Gases in California (“Project”) and certifying the
11 Functional Equivalent Document (“FED”).
- 12 2. **Set aside** Executive Order G-09-001 approving and certifying the Functional
13 Equivalent Document (“FED”).
- 14 3. **Take no action** in reliance on the Scoping Plan and FED until Respondents have
15 come into complete compliance with Respondents’ obligations under Respondents’
16 certified regulatory program and the California Environmental Quality Act
17 (“CEQA”), consistent with the Court’s Order.

18 Respondents are hereby **enjoined** from any further implementation of the measures
19 contained in the Scoping Plan until Respondents have come into complete compliance with
20 Respondents’ obligations under Respondents’ certified regulatory program and CEQA,
21 consistent with the Court’s Order. This includes any further rulemaking and implementation
22 of cap and trade, specifically but not limited to any action in furtherance of California Cap
23 and Trade Program Resolution 10-42.

24 Pursuant to Public Resources Code § 21168.9(c), this Court does not direct
25 Respondents to exercise their discretion in any particular way with respect to the Project
26 except as specifically set forth herein.

27 This Court expressly **RETAINS JURISDICTION** over Respondents’ proceedings by
28

1 way of a return to peremptory writ of mandate and any subsequent return proceedings until
2 the Court has determined that Respondents have complied with CEQA. The writ shall be
3 returned by ARB within fifteen (15) months of its issuance.

4 Date:

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6 _____
7 Clerk of the Court

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9 _____
10 Deputy Clerk of the Court

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19 COALITION FOR A SAFE ENVIRONMENT, a
20 nonprofit corporation, SOCIETY FOR POSITIVE
21 ACTION, an unincorporated association, WEST
22 COUNTY TOXICS COALITION, a nonprofit
23 corporation, ANGELA JOHNSON MESZAROS,
24 CAROLINE FARRELL, DR. HENRY CLARK,
25 JESSE N. MARQUEZ, MARTHA DINA
26 ARGUELLO, SHABAKA HERU, TOM FRANTZ, in
27 their individual capacities,

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Respondents

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PEREMPTORY WRIT OF
MANDATE**

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7 ROBERTS, JOHN G. TELLES, and RONALD O. LOVERIDGE, in their official capacities
8 as members of the Board:

- 9 1. **Set aside** Board Resolution 08-47 and Executive Order G-09-001 adopting and
10 approving the *Climate Change Scoping Plan* to Reduce Greenhouse Gases in California
11 (“Project”) as it relates to cap and trade.
- 12 2. **Set aside** Executive Order G-09-001 approving and certifying the Functional
13 Equivalent Document (“FED”).
- 14 3. **Take no action** in reliance on the FED and Scoping Plan, as it relates to cap and
15 trade, until Respondents have come into complete compliance with Respondents’
16 obligations under Respondents’ certified regulatory program and the California
17 Environmental Quality Act (“CEQA”), consistent with the Court’s Order.

18 Respondents are hereby **enjoined** from engaging in any cap and trade-related Project
19 activity that could result in an adverse change to the physical environment until Respondents
20 have come into complete compliance with Respondents’ obligations under Respondents’
21 certified regulatory program and CEQA, consistent with the Court’s Order. This includes
22 any further rulemaking and implementation of cap and trade, specifically but not limited to
23 any action in furtherance of California Cap and Trade Program Resolution 10-42.

24 Pursuant to Public Resources Code § 21168.9(c), this Court does not direct
25 Respondents to exercise their discretion in any particular way with respect to the Project
26 except as specifically set forth herein.

27 This Court expressly **RETAINS JURISDICTION** over Respondents’ proceedings by
28 way of a return to peremptory writ of mandate and any subsequent return proceedings until

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3

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Date:

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Clerk of the Court

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Deputy Clerk of the Court

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