

1 MICHAEL J. BARKLEY, CA SBN 122433
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5 Petitioner, in propria persona
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8

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SACRAMENTO
11

12 _____)	No. 34-2010-80000513
13 Michael J. Barkley,)	
14)	PETITION FOR WRIT OF MANDATE
15 Petitioner,)	
16 v.)	CCP §1085 [traditional mandamus]
17)	CCP §1094.5 [administrative mandamus]
18 State Water Resources Control Board,)	Calif Publ Resources Code §21000 et seq [CEQA]
19)	42 USC §4321 et seq [NEPA]
20 Respondent.)	16 USC §1531 et seq [ESA]
21)	Calif Fish & Game Code §2050 et seq [CalESA]
22 Bob Colella, U.S. Bureau of Reclamation,)	16 USC §668 [Bald & Golden Eagle Protection
23 Real Parties in Interest)	Act of 1940]
24 _____)	Calif Gov't Code §11340.5 [underground
	regulations]

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19 I. Introduction

20 1. For a bit more than a century USA through its Bureau of Reclamation agency, aided in part by
21 the U.S. District Court Angle Decree of 01/13/1930 and in later years by the State Water Resources
22 Control Board and its predecessors (SWRCB) has through its projects, policies, plans, and procedures
23 exercised an ever-increasing stranglehold on the 741-square-mile upper Stony Creek Watershed. It has
24 had disastrous cumulative effects on demographics, commerce, and infrastructure and chinook salmon
25 and steelhead have been extirpated, needlessly. Over the past 18 months petitioner has been looking into
26 and documenting all of this. On 09/03/2009 SWRCB noticed a petition for extension of time on one of
27 USA's component parts of its Stony Creek projects & policies. Petitioner filed a protest. On 12/14/2009
28 SWRCB apparently rejected petitioner's protest. Except for one California Public Records Act Request,
29 petitioner's considerable subsequent efforts to persuade SWRCB to follow its own procedures as well as
30 comply with CEQA, NEPA, ESA, Cal-ESA, Bald and Golden Eagle Protection Act of 1940,
31 underground regulation portions of the Government Code, and SWRCB's enabling statutes and
32 regulations, SWRCB's response has been dead silence. This petition appears to be the only appropriate
33 remedy.

34
35 II. Petitioner

1 2. Petitioner is Michael J. Barkley, address 161 N. Sheridan Ave. #1, Manteca, San Joaquin
2 County, California. who files this Petition with a Verification: he intends this to be as testimony, a
3 truthful statement of what he knows, believes, has seen, has heard, and has read. With his siblings,
4 petitioner owns lands and appropriative water rights on North Fork Stony Creek, Glenn and Tehama
5 Counties, California. Petitioner's ancestors settled on these lands as early as the mid-1850s. Although
6 petitioner is a member of several environmental organizations, he brings this action as an individual with
7 a deep abiding love of the land and a horror at what USA has done to the Upper Stony Creek watershed.
8 Petitioner is a member of the California Bar, but by the time he became admitted he was employed as a
9 computer programmer and petitioner has never practiced law. He will undoubtedly make mistakes in
10 bringing and prosecuting this petition but asks that the court be generous in allowing amendments to
11 cure those mistakes.

12 3. Along with this petition, petitioner attaches Exhibit A that lists on-line web pages of
13 documents and indexes to add context to the allegations in his petition for convenience of everyone until
14 the administrative record arrives as well as to facilitate settlement discussions. Petitioner has placed
15 portions of the administrative record on his website referenced in that Exhibit A (and will cite each
16 document for example as #A1.3.2 , etc.); petitioner's verification extends to those web pages that he
17 originated. In instances where the page is in progress and it is relevant to do so, petitioner has cited to a
18 "frozen" copy of that page. Within 24 hours of filing his petition petitioner will place on his web page at
19 <http://www.mjbarkl.com/exhibita.htm> a page of that Exhibit A with embedded HTML hyperlinks to
20 each of the pages referenced here to make it easier for anyone to click on each page rather than cutting,
21 pasting, or typing..

22
23 III. Respondent & Real Parties in Interest

24 4. Respondent is State Water Resources Control Board which, itself, and through its Division of
25 Water Rights, manages among other things appropriations of flowing waters within and on behalf of the
26 State of California since, with its predecessor agencies, the adoption by referendum of the Water
27 Commission Act of 1913 effective 12/19/1914. The State of California is also subject to the Angle
28 Decree (#A1.), see generally Section II of Protest Supplement at #A3.6.3. The State of California was
29 dismissed from the Angle case by Section IV of the Court's order of 06/24/1922, see link at that date
30 at #A1.1. , but has since returned as an unrecognized party as an *in rem* and *in personam* successor and
31 assign from the following actions, among others:

32 1) Participation in the development of Black Butte Dam and Reservoir on Stony Creek, as successor
33 and assign of USA, as well as of a number of holders of Angle Decree appropriative and riparian rights
34 to lands taken for that project, and lands of other defendants divested of rights by the Angle Decree,
35 although subsequently assigning it back to USA, see for instance #A3.3. and the 24 to 28 other

1 documents listed in #A3.1. concerning the CWC or California Water Commission;

2 2) taking of Orland Project, USA-owned, and defendant owned lands for the construction of Interstate 5
3 through Glenn & Tehama Counties and for widening and realignment of State Route 32 between Orland
4 and Hamilton City, Glenn County ;

5 3) assignment by USA to California Division of Forestry and California Department of Corrections of
6 the Salt Creek Conservation Camp west of Paskenta in Tehama County, #A9.1.

7 4) various other assignments still to be determined. The State of California is bound by the Angle
8 Decree.

9 5. SWRCB has identified Bob Colella and U.S. Bureau of Reclamation (collectively, "USA"), as
10 "Real Parties in Interest" in its Notice #A3.4.4. and Rejection of Protest #A3.7.1. and USA has done so
11 in its Petition Supplement #A3.4.3. As plaintiff in that case, USA is subject to the Angle Decree, see
12 generally Section II of Protest Supplement at #A3.6.3., and most particularly paragraphs II.C & II.D of
13 #A3.6.3.

14 15 IV. Nature of Case

16 6. The major issues are whether or not SWRCB has jurisdiction over surface flows in the Stony
17 Creek Watershed (Para. II.A., #A.3.6.3) in light of the Angle Decree, the devastating cumulative
18 adverse effects on human beings and listed species by USA's (and the State's) projects, plans, policies,
19 and procedures within the Upper Stony Creek Watershed, the failure of SWRCB to follow its own
20 procedures for handling protests, and the SWRCB's use of what amounts to underground regulations for
21 handling protests.

22 23 V. Related Case/Simple or Complex?

24 7. Petitioner is filing concurrently a Civil Case Cover Sheet Form CM-010 indicating that this
25 case is not complex plus a Notice of Related Case Form CM-015. The Related Case is the Angle Case
26 identified above. All parties in this case are parties in that case, and the issues concerned here are
27 issues that are concerned there in the continuing administration of the Decree. There were some 600
28 parties to the Angle case, and they and their successors and assigns are bound *in rem* and *in personam* by
29 the Decree. The last mailing list petitioner has seen includes some 70 parties or groups of parties, which
30 list petitioner presumes is the Water Master's list for billing Decreed Appropriators for assessments.
31 Petitioner suspects, but does not know that the total pool of parties, successors, and assigns may by now
32 be some 10,000 or 20,000 people and entities. Additionally, SWRCB has some 322 sets of files that
33 petitioner has identified so far, plus an unknown number that have disappeared, related to
34 Appropriations, Statements of Water Diversion and Use, and so on. The Angle record seems to be some
35 30,000 - 40,000 pages; the relevant SWRCB records may total some 20,000 pages or more.

1 8. At the moment, this case seems to be simple. That could change if intervenors emerge.

2
3 VI. What Happened?

4 9. A 03/27/2009 letter from Kathy Mrowka at the Division of Water Rights to
5 Sahlberg/Reclamation indicated 3 choices to move forward on Reclamation's Central Valley Project time
6 extension petitions, #A3.4.1. Choice #3, paraphrased, 3) Division cancels the 1985 petitions because of
7 no CEQA document. Petitioner thought he had a copy of this letter but cannot locate it so has asked for
8 it in the request for administrative record filed concurrently with this petition, relying in the meantime on
9 his notes at #A3.1. USA filed its petition for extension 06/23/2009. A response from Ms. Mrowka
10 07/14/2009 listed for USA what needed to be done to tidy up the application, #A3.4.1. By 09/03/2009
11 everything was ready: #A3.4.2. - #A3.4.4. are the Petition, Supplement, and Notice.

12 10. Trading emails with Ms. Mrowka #A3.5.1. , petitioner was pointed towards protest forms
13 #A3.5.2. and denied any extensions of time beyond the usual 30 days to file a protest. USA had more
14 than 5 months to get its act together. Note from #A3.1. that from the first Ap 18115 application to the
15 Public Notice was 04/11/1958 - 05/11/1961, some 3 years to prepare. In examining various SWRCB
16 files, this pattern is consistent. The applicant or petitioner gets months or years plus extensive
17 hand-holding but the public gets 30 days. Applicants and protestants are treated equally in the Water
18 Code, but not by SWRCB. So much for equal protection. (On that note, contrast the "Storing water
19 without permit" reason on #A3.10.2 with the table & chart at #A3.13.3 & #A3.13.4, also an equal
20 protection problem.)

21 11. Nevertheless, having spent most of the previous year consumed by the Angle case and its
22 repercussions, petitioner was able to file a protest #A3.6. - #A3.6.4. Aware from his digging through
23 SWRCB files that SWRCB tends to reject summarily most protests (see for instance #A3.10.2.),
24 petitioner did a fairly thorough job of presenting the primary issues of SWRCB jurisdiction and massive
25 cumulative adverse environmental effect, and did so within the 5 corners of the SWRCB protest
26 procedure: water rights, jurisdiction, public interest, contrary to law, and adverse environmental
27 impact.

28 12. It was with great surprise that petitioner received the 12/14/2009 Division of Water Rights
29 rejection, #A3.7.1. It reads as if staff did not bother to read petitioner's protest. No discussion of
30 jurisdiction appears at all even though that is fundamental. Its abrupt dismissal of any environmental
31 consideration is contradicted by the CEQA comment in staff's 03/27/2009 letter, #A3.4.1. No
32 consideration of NEPA appears. The Angle Decree eliminates the upstream/downstream rule whereby
33 upstream diverters hold the power but that was ignored as well. Petitioner has not found anywhere in the
34 Water Code where staff even has the power to reject any protest from petitioner, let alone this one.

35 13. Increasingly aware that Division of Water Rights staff was following a handbook that was

1 not publicly revealed, petitioner began asking staff to set aside and reconsider, and thereafter to discover
2 under the California Public Records Act just what that procedural handbook is, #A3.8.1., #A3.8.2.,
3 #A3.9.1. , #A3.9.2. ; by phone call 7 days before what petitioner believes to have been the deadline, and
4 by spoken aside in the SWRCB public forum the next day petitioner was informed of the water code and
5 regulation sections governing petitions for reconsideration, and filed his petition withn that time, A3.10.
6 through #A3.10.5. The response? Dead silence. Ever hopeful, petitioner filed more comments,
7 #A3.11.1. - #A3.13.8., still dead silence.

8 14. Thus it is with some surprise that staff's 03/25/2010 Order appeared on staff's website
9 #A3.14. By that Order, The Division of Water Rights seems to have made massive changes in the terms
10 under Ap-018115/Permit 13776, and has done so without any environmental inquiry whatsoever, at least
11 as to the Upper Stony Creek Watershed. It would appear from staff's 03/29/2009 letter and this Order
12 that staff's justification for ignoring cumulative environmental effects in its 12/14/2009 letter is
13 blatantly false.

14 15. Petitioner believes he has done an adequate job of presenting these issues in his filings
15 #A3.6. - #A3.13.8. Respondent's "dead silence" treatment of petitioner in response has been totally
16 outrageous.

17 VII. Exhaustion of Remedies/Statutes of Limitation

18 16. Petitioner believes he has gone way beyond exhaustion of remedies. At every step he has
19 asked for relief, only to encounter dead silence. Petitioner knows of no remaining administrative
20 remedies other than this petition.

21 17. Respondent's manner of handling protests have left petitioner not knowing whether this
22 petition is premature, timely, or tardy. As petitioner describes at Para I.B. of #A3.10. he received a
23 phone call on 01/04/2010 informing him the procedure for requesting reconsideration of a staff denial of
24 the right to protest is under California Water Code Section 1122 and 23 CCR Sections 768 & 769 of the
25 board's regulations. This was a surprise since the rejection letter does not use the words "decision" or
26 "order" (Water Code Section 1120), there's no mention of "adoption by the board" (Regulation Section
27 768), it was not served by personal delivery or registered mail (Section 1121), and so on. Delegations to
28 the Division of Water Rights are very limited in the Water Code, principally under four groups of Code
29 Sections (174-188.5 , 1228-1229.1, 1345-1348, 1700-1707, per the Legislature's Code website); in none
30 of these code sections does the power to reject petitioner's protest appear independent of some specific
31 delegation of authority. If that authority exists, where is it? Absent that delegation, the rejection would
32 need all the elements of "decision" or "order" (Water Code Section 1120) "by the board" (Regulation
33 Section 768) properly served (Water Code Section 1121) to be valid. Is there no statute of limitations at
34 all because the 12/14/2009 letter is just a letter without authority?
35

1 18. Water Code Section 1122 requires a petition for reconsideration "not later than 30 days from
2 the date the board adopts a decision or order." Assuming that applies in this case, Petitioner's
3 01/12/2010 petition (for which he has a SWRCB date stamp) was timely. Water Code Section 1122 also
4 requires that "The board shall order or deny reconsideration on a petition therefor not later than 90 days
5 from the date the board adopts the decision or order." Would that have been 03/14/2010, by "pocket
6 veto" since no order or denial has appeared? Water Code Section 1126. subdivision (b) states in part
7 "(b) Any party aggrieved by any decision or order may, not later than 30 days from the date of final
8 action by the board, file a petition for a writ of mandate for review of the decision or order." Would that
9 be 04/13/2010 if

10 1) the 12/14/2009 letter was valid despite the missing elements, and

11 2) the dead silence of the Board by 03/14/2010 works as a pocket denial of the petition for
12 reconsideration, and a "final action by the board"?

13 It is all such a secret. Subdivision (b) goes on: "The time for filing the petition for writ of mandate and
14 the time for filing an action or proceeding in which the board is a respondent under Section 21167 of the
15 Public Resources Code shall be extended for any person who seeks reconsideration by the board
16 pursuant to this article." That seems to apply to this petition.

17 19. Is petitioner premature? timely? tardy? Petitioner believes he is timely, but would not be
18 surprised by some other, hidden interpretation held by the Board or its staff. This entire process is brutal
19 on protestants in comparison to the generosity the Board shows to applicants in general and the USA in
20 particular.

21
22 VIII. Traditional Mandamus or Administrative Mandamus?

23 20. California Water Code Section 1126. subdivision (a) states in part "It is the intent of the
24 Legislature that all issues relating to state water law decided by the board be reviewed in state courts, if a
25 party seeks judicial review." This is why petitioner has filed his petition here rather than as a motion in
26 the Angle Court, where it may more properly be. California Water Code Section 1126 subdivision (c)
27 states in part "Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings under
28 this section." As petitioner understands it, that is for where a proper record is developed from a proper
29 hearing. In this case, where the protest and hearing were summarily denied, petitioner is puzzled as to
30 whether the remedy is under CCP Section 1085 or 1094.5 or both. Various California Continuing
31 Education of the Bar treatises urge seeking relief under both where there is doubt (e.g. CEB California
32 Administrative Mandamus, Third Edition, Oakland, 2009; §1.11 & §6,24) Hence, this petition follows
33 that suggestion.

34
35 IX. Remedies

1 21. The easiest remedy is to remand with instructions to accept the protest, after which SWRCB
2 would follow its usual procedures to whatever result may come. Petitioner would prefer this remedy.

3 22. All other remedies will require the court to do SWRCB's work for it, to substitute its own
4 evaluation for the evaluation that SWRCB has shirked, such as examining the questions of jurisdiction,
5 cumulative environmental effects, underground regulations, and so on.

6 23. Petitioner has no plain, speedy and adequate remedy in the ordinary course of law to reduce
7 or halt the irreparable harm he, his family, his neighbors and the Upper Stony Creek watershed
8 environments have all suffered over the decades during which USA has steadily increased its grip on the
9 watershed and thus petitioner must bring this petition.

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11
12 First Cause of Action - Traditional mandamus, CCP §1985 & Water Code & regs [accept protest,
13 hearing required]

14 24. Petitioner incorporates all of the above.

15 25. The court should find that SWRCB has no statutory or regulatory basis for rejecting
16 petitioner's protest, and remand for SWRCB's acceptance of the protest and proceedings thereafter in
17 SWRCB's usual course.

18
19 Second Cause of Action - Traditional mandamus, CCP §1985 & Water Code & regs [preemption by
20 Federal Decree]

21 26. Petitioner incorporates all of the above.

22 27. The court should find that the Angle Decree preempts State jurisdiction to allocate surface
23 flows to anyone bound by the Decree, which includes USA, and therefore SWRCB has no jurisdiction to
24 even consider Ap 18115 and any petitions thereunder and must set aside any orders it has ever issued
25 regarding Ap 18115 and dismiss the Application and its related Permit.

26
27 Third Cause of Action - Administrative mandamus, CCP §1994.5 & Water Code [hearing results]

28 28. Petitioner incorporates all of the above.

29 29. Based on the sworn submissions by petitioner and in the absence of any substantive response
30 by SWRCB, the court should find that petitioner's submissions constitute the entire record, petitioner's
31 protest is accepted and his settlement terms at Paragraph V of his Protest, #A3.6.3. , as modified by
32 paragraph #2 of his 02/11/2010 filing (#A3.11.1.) are adopted as required terms of any grant of
33 extension of the petition for extension under Ap. 18115.

34
35 Fourth Cause of Action - California Environmental Quality Act (California Public Resources Code

1 §21000 et seq.) & Guidelines [cumulative effects, project]

2 30. Petitioner incorporates all of the above.

3 31. As far as petitioner knows, no notices have been filed by SWRCB under Public Resources
4 Code §21108 for the extension petition, and that the only "environmental document" SWRCB
5 contemplates is the 12/14/2009 rejection letter asserting that no environmental review is required.

6 32. On 03/15/2010 petitioner delivered to the SWRCB Mail Room a copy of his Supplement
7 #A3.12.1. which contained therein a notice to SWRCB under California Public Resources Code Section
8 21167.5 of commencement of this action, for the cumulative project (for which USA's petition for
9 extension is only the latest manifestation) described in Section I.I (One-Eye) of the Supplement to
10 Petitioner's 10/01/2009 Petition A3.6.3. Concurrently with the filing of this petition, petitioner is also
11 filing a separate, additional "Proof of prior service by mail upon the public agency [SWRCB] carrying
12 out or approving the project of a written notice of the commencement of [this] action or proceeding
13 described in [California Public Resources Code] Section 21167 identifying the project..."

14 33. Immediately following the filing of this petition, petitioner will furnish the Attorney General
15 of the State of California with a copy of this petition pursuant to California Public Resources Code
16 Section 21167.7.

17 34. The cumulative Ap. 18115 Environmental Review listing at #A3.10.5. , and especially for
18 efforts of the CSPA (California Sportfishing Protection Alliance) to restore the Stony Creek fishery,
19 filings such as the CSPA 01/31/1994 protest shows that SWRCB regularly disposes of protests before
20 beginning environmental reviews and thereby effectively blunts the ability of the public to negotiate for
21 environmental mitigations.

22 35. SWRCB's protest procedures, whatever they may be, improperly shift the burden of proof for
23 environmental issues from the applicant to the protestant.

24 36. Based on the sworn submissions by petitioner and in the absence of any substantive response
25 by SWRCB, the court should find that petitioner's submissions constitute the entire record, petitioner's
26 protest is accepted and his settlement terms at Paragraph V of his Protest, #A3.6.3. , as modified by
27 paragraph #2 of his 02/11/2010 filing (#A3.11.1.) are adopted as required mitigations for any
28 grant of extension of the petition for extension under Ap. 18115.

29
30 Fifth Cause of Action - National Environmental Policy Act (42 USC 4321 et seq.) & Regs
31 [cumulative effects, proposal or plan, major federal action]

32 37. Petitioner incorporates all of the above.

33 38. Based on the sworn submissions by petitioner and in the absence of any substantive response
34 by SWRCB or any compliance whatsoever with the requirements of review, assessment and reporting of
35 the National Environmental Policy Act, the court should find that petitioner's submissions constitute the

1 entire record, that the cumulative project, plan, proposals, and policies as described in the Fourth Cause
2 of Action constitute a major federal action, and petitioner's protest is accepted and his settlement terms
3 at Paragraph V of his Protest, #A3.6.3. , as modified by paragraph #2 of his 02/11/2010 filing (#A3.11.1.
4) are adopted as required mitigations for any grant of extension of the petition for extension under Ap.
5 18115.

6
7 Sixth Cause of Action - Endangered Species Act (16 USC §1538(a)(1) , 16 USC §§1531 - 1543)
8 & Regulations [take of chinook, Steelhead, listed Raptors]

9 39. Petitioner incorporates all of the above.

10 40. Based on the sworn submissions by petitioner and in the absence of any substantive response
11 by SWRCB, the court should find that petitioner's submissions constitute the entire record, petitioner's
12 protest is accepted, the "take" of chinook salmon and steelhead caused by USA's barriers on Stony Creek
13 are capable of reduction by properly constructed fish channel bypasses, etc. and his settlement terms at
14 Paragraph V of his Protest, #A3.6.3. , as modified by paragraph #2 of his 02/11/2010 filing (#A3.11.1.)
15 are adopted as required conditions for any take of these species and for any grant of extension of the
16 petition for extension under Ap. 18115.

17
18 Seventh Cause of Action - California Endangered Species Act (California Fish & Game Code
19 §§2050-2098) & Regulations [take of Bald Eagles, other state listed raptors]

20 41. Petitioner incorporates all of the above.

21 42. Based on the sworn submissions by petitioner and in the absence of any substantive response
22 by SWRCB, the court should find that petitioner's submissions constitute the entire record, petitioner's
23 protest is accepted, chinook salmon and steelhead are an important source of food for Bald Eagles,
24 Golden Eagles, and other protected raptors, "take" in the Bald and Golden Eagle Protection Act of 1940
25 is sufficiently similar to "take" in the Endangered Species Act to require properly constructed fish
26 channel bypasses , etc. to restore that food supply and petitioner's settlement terms at Paragraph V of his
27 Protest, #A3.6.3. , as modified by paragraph #2 of his 02/11/2010 filing (#A3.11.1.) are adopted as
28 required conditions for any take of these species and for any grant of extension of the petition for
29 extension under Ap. 18115.

30
31 Eighth Cause of Action - Bald and Golden Eagle Protection Act of 1940 16 USC §668 [take of Bald
32 Eagles]

33 43. Petitioner incorporates all of the above.

34 44. Based on the sworn submissions by petitioner and in the absence of any substantive response
35 by SWRCB, the court should find that petitioner's submissions constitute the entire record, petitioner's

1 protest is accepted, chinook salmon and steelhead are an important source of food for Bald Eagles,
2 Golden Eagles, and other protected raptors, "take" in the Bald and Golden Eagle Protection Act of 1940
3 is sufficiently similar to "take" in the Endangered Species Act to require properly constructed fish
4 channel bypasses , etc. to restore that food supply and petitioner's settlement terms at Paragraph V of his
5 Protest, #A3.6.3. , as modified by paragraph #2 of his 02/11/2010 filing (#A3.11.1.) are adopted as
6 required conditions for any take of these species and for any grant of extension of the petition for
7 extension under Ap. 18115.

8
9 Ninth Cause of Action - Underground regulations, Government Code Section 11340.5 [protest the
10 process]

11 45. Petitioner incorporates all of the above.

12 46. SWRCB's response to petitioner's CPRA request, #A3.9.2., sheds some light on the process
13 but in the process demonstrated that SWRCB's handling of protests is indeed governed by underground
14 regulations.

15 47. Based on the sworn submissions by petitioner and in the absence of any substantive response
16 by SWRCB, the court should find that petitioner's submissions plus the SWRCB response mentioned in
17 paragraph 46 constitute the entire record, and that SWRCB's internal unpublished procedures produce a
18 nightmare of uncertainty among the general public as to how protests are to be handled and are exactly
19 the sort of underground regulations prohibited by Government Code Section 11340.5 subdivision (a),
20 and that SWRCB should immediately halt the rejection of protests and failing to inform the public of its
21 protest denial and appeal procedures, and further begin the process towards proper rulemaking that will
22 henceforth adequately describe these processes for the general public.

23
24 Plea,

25 1. That, under Cause Number One this honorable Court should find that SWRCB has no
26 statutory or regulatory basis for rejecting petitioner's protest, and remand for SWRCB's acceptance of it
27 and proceedings thereafter in SWRCB's usual course (response from applicant, negotiations, public
28 hearing if needed, etc.), and issue its order and writ so requiring, but, failing that, proceed as described
29 above for Causes Two through Nine,

30 2. For award of costs of suit, and

31 3. For such other relief as the Court may deem appropriate,

32 ///

33 ///

34 ///

35 ///

1 Respectfully submitted this 12th Day of April, 2010,
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3
4

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10 VERIFICATION

11 I declare under penalty of perjury under the laws of the United States of America that the
12 allegations and factual contentions and recitations in this petition and attached and referenced exhibits
13 are true and correct, except for those submitted on information and belief and as for those I believe them
14 to be true and correct. Executed on April 12, 2010,
15
16
17

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