SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

COMMUNITIES FOR A BETTER ENVIRONMENT, CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB, and NATURAL RESOURCES DEFENSE COUNCIL,

Petitioners/Plaintiffs,

vs.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT;

Respondents,

DOES 1 through 30, inclusive,

Real Parties in Interest.

WESTSERN STATES PETROLEUM ASSOCIATION,

Intervenor/Respondent

Case No.: BS161399

ORDER GRANTING THE PETITION FOR A WRIT OF MANDATE IN PART

Hearing Date: November 1, 2017
Dept.: 86

I. Introduction

Petitioners seek a writ of mandate pursuant to Code of Civil Procedure section 1085 directing Respondent South Coast Air Quality Management District (Air District or AQMD) to set aside its December 4, 2015 amendments to the District's Regulation XX, Regional Clean Air Incentives Market ("RECLAIM") reducing RTC credits by 12 tons per day (tpd) and its determination to adopt the amendments without further hearing or comment. The Air District and Intervenor Western States Petroleum Association ("WSPA") oppose the Petition.

The Court finds the Air District violated Health & Safety Code section 40726 because the December 4, 2015 amendments made changes in the regulation proposed in the Notice of Hearing that were "so substantial as to affect the meaning of the proposed rule." Under Section 40726, the Air District "shall not take action" on such changes without "allow[ing] further comments, arguments, and contentions" to be presented in a further hearing. The Court therefore GRANTS the Petition, vacates the Board's determination that no further hearing or comment was necessary, and remands for further proceedings.

II. Statement of Case

RECLAIM is a "cap and trade" market-based emission control program, which regulates emissions of oxides of nitrogen (NOx) and oxides of sulfur (SOx) for the South Coast Air Basin. The Amendments as issue in this case relate to the NOx portion of the RECLAIM program. Under the RECLAIM program, facilities receive annual allocations of RECLAIM Trading Credits ("RTCs") for NOx emissions. (AR 19907, 20290.) These allocations function as a cap on NOx emissions for each facility. Facilities with NOx emissions above their annual allocations must (1) install pollution controls; (2) modify operations or materials used; or (3) purchase additional unused RTCs from other facilities. (AR 19894, 20290.)

State law requires the RECLAIM program to achieve, in the aggregate, equivalent or greater emission reductions compared to command and control regulations. (Health & Safety Code §§39616(b)(1), 40440.) Because technology advances over time, the level of emission control obtainable through use of best available retrofit control technology ("BARCT") also changes over time. As a result, the Air District is required to periodically evaluate and amend the RECLAIM program to ensure that emissions reductions are keeping pace with advances in BARCT. (AR 17774.)

In 2012, the Air District Staff initiated a BARCT assessment process. The Staff found there was a gap between the actual level of NOx emissions (20.7 tpd in 2011) and the total number of NOx RTCs available in the RECLAIM program (26.5 tons per day) (AR 19687-19688) and that 8.8 tpd of additional NOx emission reductions were required to achieve BARCT equivalency. (AR 17776, 19687.) To achieve an 8.8 tpd reduction in actual emissions, the Air District Staff calculated it would be necessary to reduce or "shave" 14 tpd of RTC allocations between 2016 and 2022. (AR 17777-79, 19687-88.)

Pursuant to its analysis, the Air District Staff drafted proposed amendments to the RECLAIM regulations (Staff Proposal) for a 14 tpd reduction in RTCs to be implemented under a back-loaded schedule. (AR 17761-18028.) On October 28, 2015, the Board issued a Notice of Public Hearing (Notice of Hearing) attaching the Staff Proposal and summary of its effects ("[a]t full implementation the proposed amendments will reduce NOx RTCs by 14 tons per day by December 2022.") (AR 17759-60.) The Air District Board (Board) conducted a December 4, 2015 hearing on the Staff Proposal. The Board declined to adopt the Staff Proposal and, instead, adopted an alternative proposal calling for a 12 tpd shave to be implemented under a back-loaded schedule. (AR 21787:17-20, 21896:7-14, 22289-90.)

Although there is no signed copy in the record provided to the Court, it appears that the Resolution identified as Attachment E to the Board's December 4, 2015 agenda was passed with

minor changes. (AR 19711-19716, 22289-90). The Resolution includes a "WHEREAS" clause addressing the adequacy of notice:

> WHEREAS [the Board] finds and determines, taking into consideration the factors in Section (d)(4)(D) of the Governing Board Procedures, that ***the modifications*** which have been made to Proposed Amended Regulation XX . . . since notice of public hearing was published ***do not significantly change the meaning*** of the proposed amended regulation within the meaning of Health and Safety Code §40726. . . ."

Petitioners now seek a writ of mandate setting aside the Board's determinations (1) to adopt the 12 tpd reduction and (2) the Board's determination that adopting the 12 tpd reduction was not a such a "significant change in the meaning" as to trigger the Board's obligation to conduct a further hearing and receive additional comment under Health & Safety Code Section 40726.

III. Applicable Law

Health & Safety Code Section 40725, subd. (a) requires the District to conduct public hearings before amending any regulation. Under Section 40725, subd. (b), the District must give 30 days advance notice of such public hearings and include, in the notice, the text of the proposed amendment and a summary description of its effect:

> "***Notice*** of the time and place of a public hearing to adopt, amend, or repeal any rule or regulation ***shall be given*** not less than 30 days prior thereto to the state board, which notice ***shall include a copy of the rule or regulation*** proposed to be adopted, amended, or repealed, as the case may be, ***and a summary description of the effect*** of the proposal, and by publication in the district pursuant to Section 6061 of the Government Code."

Section 40726 requires the District to receive "statements, arguments or contentions" at the hearing and mandates that, at the hearing, the District "shall not," until its next regular meeting, take action on any change in text "so substantial as to significantly affect the meaning of the proposed rule or regulation" without further hearing and comment:

> "The public hearing . . . shall provide for the submission of statements, arguments, or contentions . . . . Following consideration of all relevant matter presented, a district board may adopt, amend, or repeal a rule or regulation, **unless the board makes changes in the text originally made available to the public that are so substantial as to significantly affect the meaning of the proposed rule or regulation**. The board **shall not** take action on a changed text before its next regular meeting, and **shall** allow further statements, arguments, and contentions, either written, oral, or both, to be made and considered prior to taking final action."

(Health & Safety Code, § 40726, emphasis added.)

The Air District's Administrative Code Section 30.5(4)(D)(i) implements Sections 40725 and 40726. It also identifies factors the Air District "shall consider" in deciding whether a decision to modify a proposed amendment warrants further hearing and comment:

> "(i) ***If***, subsequent to issuance of the 30-day public notice of hearing to adopt or amend a rule, ***changes are made in the text of the proposed rule which significantly affect its meaning***, the Board may consider and hear public comment regarding the proposed rule at the noticed hearing but ***shall not take action*** on the changed text. ***The Board*** shall publicly release or summarize the text changes and ***shall continue the hearing*** to no earlier than its next regular meeting. At the subsequent meeting, the Board shall allow testimony regarding the changed text prior to taking final action. In determining whether or not a proposed change significantly affects the meaning of a rule, the following factors shall be considered:
>
> (a) impact of the change on emission reductions,

(b) impact of the change on sources regulated by the rule,

(c) the contents of the public notice, and

(d) the range of alternatives described in the CEQA document

IV. Standard of Review

Code of Civil Procedure section 1085(a) provides in relevant part:

"A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person."

"There are two essential requirements to the issuance of a traditional writ of mandate: (1) a clear, present and usually ministerial duty on the part of the respondent, and (2) a clear, present and beneficial right on the part of the petitioner to the performance of that duty. (*California Ass'n for Health Services at Home v. Department of Health Services* (2007) 148 Cal.App.4th 696, 704.) "Generally, a writ will lie when there is no plain, speedy, and adequate alternative remedy . . . ." (*Pomona Police Officers' Ass'n v. City of Pomona* (1997) 58 Cal.App.4th 578, 583-84.)

A. The Court Reviews the October 25, 2015 Resolution to Reduce RTC credits by 12 tpd as a Quasi-Legislative Decision Subject to an "Arbitrary and Capricious" Standard.

A court's standard of review depends upon the "legislative" or "adjudicatory" nature of the agency's decision. Whether an administrative action is quasi-legislative or quasi-judicial is a question of law for the court to decide. (*Major v. Gould Medical Foundation* (1999) 71 Cal.App.4th 1380, 1399.) Generally speaking, a legislative action is the formulation of a rule to

be applied to all future cases, while an adjudicatory act involves the actual application of such a rule to a specific set of existing facts." (*Strumsky v San Diego County Employees Retirement Assn.* (1974) 11 Cal.3d. 28, fn. 2; *Dominey v. Dept. Personnel Administration* (1988) 205 Cal.App.3d 729, 736.) "An agency's adoption of rules, regulations, standards, guidelines, or policies is a quasi-legislative act, reviewable by traditional, not administrative mandamus under CCP § 1085." (Cal. Administrative Mandamus (Cont.Ed.Bar 3d ed. 2017) § 5.20.) The Air District's Resolution amending its regulations to adopt a 12 tpd reduction in credits was a quasi-legislative act.

"In assessing the validity of a quasi-legislative regulation in an action for mandamus under Code of Civil Procedure section 1085, '[o]ur inquiry necessarily is confined to the question whether the classification is "arbitrary, capricious, or [without] reasonable or rational basis.' [Citation.] Furthermore, '[u]nless otherwise provided by law, 'the petitioner always bears the burden of proof in a mandate proceeding brought under Code of Civil Procedure section 1085.' [Citation.] Thus, it is petitioner's burden to establish that [the agency's] decision was arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair.' [Citation.]" (*American Coatings Assn., Inc. v. South Coast Air Quality Dist.* (2012) 54 Cal.4th 446, 460, emphasis added.)

B. The Court Reviews the Board's Determination the Adopted Resolution was not a "Substantial Change" from the Noticed Staff Proposal as a Quasi-Judicial Determination Subject to an "Abuse of Discretion" Standard

As noted above, an agency's application of an existing rule to extant conduct is quasi-judicial in nature. (*Strumsky, supra,* fn. 2.) The Board's finding that the adopted Resolution "did not significantly change the meaning" of the proposal in its Notice of Meeting was a quasi-judicial determination reviewable under an abuse of discretion standard. (*O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th 568, 585 (*O.W.L. Foundation*).) When there is no statute requiring the agency to conduct an evidentiary hearing, ordinary mandamus may be used to correct an agency's abuse of discretion in rendering a quasi-judicial decision. (*Id.*) The standard for

Section 1085 review of a quasi-judicial determination is slightly different from the standard that applies to review of a quasi-legislative decision because the court examines whether the agency considered relevant factors and demonstrated a rational connection between the factors, the decision, and the purpose behind the regulation. As explained in *O.W.L Foundation*:

> In traditional mandamus actions, the agency's action must be upheld upon review unless it constitutes an abuse of discretion. (*Shapell Industries, Inc. v. Governing Board* (1991) 1 Cal.App.4th 218, 230, 1 Cal.Rptr.2d 818.) "When reviewing the exercise of discretion, '[t]he scope of review is limited, out of deference to the agency's authority and presumed expertise: "The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]" ' [Citation.] 'In general ... the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support....' [Citation.] When making that inquiry, ***the ' " 'court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.***' [Citation.]" ' [Citation.]" (*American Board of Cosmetic Surgery v. Medical Board of California* (2008) 162 Cal.App.4th 534, 547–548, 75 Cal.Rptr.3d 574, fn. omitted (*American Board*).)

(*Id.* at 585-86.) (Emphasis added.) This Court reviews the Air District's determination not to conduct a further hearing under the "abuse of discretion" standard as articulated in *O.W.L. Foundation.*

V. Analysis

As set forth in its Notice of Public Hearing, the Air District's Staff Proposal recommended a 14 ton per day ("tpd") shave with a front-loaded schedule of implementation: 4 tpd shaved in 2016 and 2 tpd shaved each successive year from 2018-2022. (AR 19689.) In compliance with Section 40725 and Admin. Code § 30.5(D)(i), the Board's October 28, 2015 Notice of Public

Hearing duly attached the language of the Staff Proposal and a "summary description of the effect" ("[a]t full implementation the proposed amendments will reduce NOx RTCs by 14 tons per day by December 2022.") (Health & Safety Code Section 40725, AR 17759-60.)

At the December 4, 2015 hearing, Board Member Nelson presented an alternative proposal calling for a 12 tpd shave to be implemented under a back-loaded schedule. (AR 21787:17-20, 21896:7-14.) The Board voted to pass this alternative proposal. (AR 22289-90.) The Resolution included a "WHEREAS" clause stating the Board "finds and determines, taking into consideration the factors in [Admin. Code § 30(d)(4)(D)] that the modifications . . . since notice of public hearing was published do not significantly change the meaning of the proposed regulation . . . ." As noted above, there does not appear to be a signed copy of the Resolution in the record presented to the Court.

1. The Board Applied an Incorrect Legal Standard

Section 40726 and Admin. Code § 30.5(D)(i) require a further hearing and comment for any "changes in the text" that are "***so substantial*** as to significantly ***affect*** the meaning of the proposed rule or regulation." The Court interprets this "substantial" to refer to a change in substance as opposed to an improvement in grammar or wording conveying the same meaning. The Court interprets "affect" to mean producing an effect on or "influencing" the meaning. (See, www.meriamwebster.com.)

Although the statutory standard depends on a change significant enough to "***affect the meaning***," the WHEREAS clause in the Board's resolution applied different standard when it found "the modifications. . . made . . . since notice of public hearing was published do not ***significantly change the meaning*** of the proposed amended regulation . . . ." (AR 19712.) The Court interprets the word "change" to mean make different or replace. (See, www.meriamwebster.com.) By requiring a change in meaning rather than a change that merely

affects the meaning, the Air District applied a more stringent standard. This Court finds, as a matter of law, that the standard articulated in the WHEREAS clause is incorrect under Section 40726 and Admin. Code § 30.5(4)(D)(i). It was an abuse of discretion to apply the incorrect standard.

2. The Failure to Conduct a Further Hearing and Receive Comment Was an Abuse of Discretion because the Board Failed to Weigh and Consider the Mandated Factors and Failed to Establish a Rational Connection between the Factors, the Decision, and the Purpose of Section 40726 and Admin. Code § 30.5(4)(D).

As noted above, the Administrative Code requires that in determining whether a change is substantial enough to affect the meaning of an amendment, the Board "shall consider" four factors: (a) impact of the change on emission reductions, (b) impact of the change on sources regulated by the rule, (c) the contents of the public notice, and (d) the range of project alternatives described in the CEQA document. (Admin. Code § 30.5(4)(D)(i)(a) – (d).) Although the WHEREAS clause recites the conclusion that the Board considered the factors, there is no evidence the Board actually did so and no evidence establishing any rational connection between the factors and the determination not to continue for further comment. The fact that the Resolution containing the WHEREAS clause was, apparently, never signed is evidence the Board did not actually make the determination recited in that clause.

The balance of the record is silent as to any weighing of consideration of the factors in Admin. Code § 30.5(4)(D)(i). For example, there is no evidence the Board evaluated the content of its Notice of Hearing as required under factor (c). (Admin. Code § 30.5 (4)(D)(i)(c). (AR 11759-60.) Because the Notice of Hearing did not include a copy of the 12 tpd amendment or a summary of the effect of that amendment as required under Section 40725, this factor arguably weighs in favor of conducting a further hearing. There is likewise no evidence the Board evaluated the impact of the adopted resolution on emissions as required under the factor (a). (Admin. Code

§ 30.5(4)(D)(i)(a).) Although the CEQA analysis attached to the Notice of meeting addresses five alternatives, none of the alternatives proposed a 12 tpd reduction or evaluated the impact of such a proposal. This factor therefore arguably weighs in favor of conducting a further hearing.

There is similarly no evidence the Board considered the range of CEQA alternatives as required under Admin.Code § 30.5(4)(D)(i)(d). Although the Staff Report addressed five possible CEQA alternatives to the Staff Proposal -- (1) an across the board reduction of 14 tpd; (2) an across the board reduction of 15.87 tpd; (3) an across the board reduction of 8.77 tpd; (4) no reductions; and (5) an across the board reduction of 14 tpd weighted by BARCT reduction contribution – there was no alternative suggesting a 12 tpd shave. (AR 20653-57, 20698.) The Staff Proposal recommended against adopting any of the five alternatives (AR 20697-98) and identified the 14 and 15.87 tpd alternatives as the only alternatives environmentally equivalent to the Staff Proposal. (AR 20698. 20655.) Therefore, had the Board weighed and considered this factor, it may well have concluded that it weighed in favor of conducting a further hearing. Finally, there is no evidence the Board considered the effect of the 12 tpd reduction on the regulated facilities when it determined there was no need for further proceedings as required for factor (b). (Admin. Code § 30.5(4)(D)(i)(b). As noted in *O.W.L. Foundation*, the ' " 'court must ensure that an agency has adequately considered all relevant factors" and "demonstrated a rational connection between those factors [and] the choice made." (*O.W.L. Foundation*, supra, at 585-86.) The Board's failure to weigh and consider the four factors and failure to make a rational connection was therefore an abuse of discretion.

The Air District's application of an incorrect standard and its failure to weigh and consider the relevant factors undermined the purposes of Section 40726. The mandatory language in this provision (the Air District "*shall not* take action on a changed text" when it includes changes "so substantial as to significantly affect the meaning of the proposed rule or regulation") underscores the Legislative purpose of ensuring that the public has 30 days notice and a *bona fide* opportunity to comment before the District adopts or amends a regulation with changes that significantly affect

the meaning of the proposal presented in the Notice of Hearing. The language in Admin. Code § 30.5(4)(D) similarly directs that the Board "*shall not* take action on the changed text" and "*shall continue* the hearing to no earlier than its next regular meeting." As noted in *O.W.L. Foundation*, the ' " 'court must ensure that an agency has adequately considered all relevant factors, and ***has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute***." (*O.W.L. Foundation*, *supra*, at 585-86.) The Court is not persuaded the Board has demonstrated a rational connection between its decision and the purposes of Section 40726 and Admin. Code § 30.5(4)(D). Alternatively, the Administrative Code imposes a duty on the Air District requiring that it "shall consider" these factors and the Board failed to perform that duty in violation of Section 1085.

3. Respondents' Arguments Are Not Persuasive

The District contends the "small adjustments made by the Board were well within the scope of the noticed action," pointing out the proposed alternative of a 12 tpd shave was "very close to halfway" between the range of alternatives considered in the Staff Report. (Dist. Opp. p. 26.) However, the District fails to cite authority for the proposition that the statutory notice requirements do not apply so long as the Board's change in text is a number "halfway" between the alternatives identified in the Staff Report. The salient question is whether the Resolution adopting a 12 tpd reduction (back-loaded) was a substantial enough change from the Staff Proposal of 14 tpd (front-loaded) to "significantly affect the meaning" of the Staff Proposal. (Health & Safety Code § 40726.) As noted above, the Board's effort to make that determination was an abuse of discretion because it applied an incorrect standard and failed to weigh relevant factors.

Citing *Bello v. ABA Energy Corp.* (2004) 121 Cal.App.4th 301, 318 (*Bello*) and *Communities for a Better Environment v. State Water Resources Control Board* (2003) 109 Cal.App.4th 1089, 1107 (*Communities*), the District argues the Board's determination of no significant change was an interpretation of an agency rule requiring judicial deference. The Court agrees that deference "is particularly appropriate where . . . the agency is interpreting its own

[regulatory] language." (*Bello* at 318.) However, in this case, there is no evidence the Board interpreted the language of Admin. Code § 30.5(4)(D). By contrast, in *Bello*, the Court appropriately deferred to an agency witness's testimony at trial interpreting the meaning of a regulation. (*Id.* at 319.) Similarly, in *Communities,* the court deferred to the approach taken by three separate agencies implementing a regulation as evidence of their interpretation of that regulation. (*Communities* at 1107.) In this case, there was no opinion letter, testimony, conduct or other evidence the agency interpreted the language of Section 30.5(4)(D). The evidence is that the Board made a quasi-judicial decision applying an existing rule to facts already in the record (the text of the Staff Proposal as compared with the adopted Resolution). The decisions in *Bello* and *Communities* are therefore inapposite.

The Court also rejects the District's argument that language in the Notice of Hearing about notifying the public there could be potential modifications was adequate notice. In its Notice of Hearing, the Board stated, "NOTICE IS FURTHER GIVEN that at the conclusion of the public hearing, [the Board] may make other modifications to the Proposed Amendments . . . which are justified by the evidence presented or may decline to adopt it." The Court interprets this provision as giving notice of the possibility of minor changes to the Staff Proposal because the word "modify" generally is defined as the making of "minor changes." (See, e.g., www.meriamwebster.com.) It is difficult to regard the adopted Resolution as a "minor change" given that the Board voted against the Staff Proposal for a 14 tpd reduction (front-loaded) in favor of a 12 tpd reduction (back-loaded). More importantly, Section 40726 and Admin. Code § 30.5(4)(D) define the changes that can be made without further notice, hearing and input. These provisions prohibit the adoption of any Resolution that "makes changes in the text so substantial as to significantly affect the meaning" of the circulated proposal without continuing the hearing and accepting further input. The Board cannot avoid these mandates by placing disclaimers in its Notices of Meetings.

WSPA argues the public had sufficient opportunity to comment on the proposed 12 tpd shave because Nelson introduced the motion to adopt the alternative proposal early in the December 4, 2015 hearing and prior to the public comment period. (WSPA Opp. p. 28.) However, Section 40726 and Air District Administrative Code make it clear that fewer than 30 days notice of a change affecting the meaning of a proposed amendment is insufficient. If the Board makes substantial changes to a proposed rule are made *any time* "subsequent to issuance of the 30-day public notice," it "shall not take action on the changed text" at the noticed hearing, but must continue the hearing to a date no earlier than its next regular meeting. The Court therefore rejects the argument that same day notice was statutorily adequate.

WSPA also argues Petitioners failed to exhaust administrative remedies because Petitioners failed to make a contemporaneous request that the matter be continued for further consideration. The Court is not persuaded by this argument. WSPA does not identify a regulation or statute articulating a requirement that a member of the public request a continuance. The Health and Safety Code sections setting forth the District's hearing and notice requirements do not contain such procedures or state that Petitioners must exhaust administrative remedies prior to seeking judicial review. To the contrary, Section 40726 imposes an affirmative duty on the Board to continue a hearing and allow further comment whenever the Board makes substantial changes affecting the meaning of the circulated amendment after giving notice. (Health & Saf. Code, § 40726 ["The board ***shall not*** take action on a changed text before its next regular meeting, and ***shall*** allow further statements, arguments, and contentions, either written, oral, or both, to be made and considered prior to taking final action.], emphasis added.)

VI. Conclusion

The Board applied an incorrect legal standard and abused its discretion when it determined it could reject the Staff Proposal and instead resolve to reduce RTC credits by 12 tpd without conducting a further hearing and receiving comment pursuant to Section 40726 and Admin. Code

§ 30.5(4)(D). The Court therefore GRANTS the Petition for Writ of Mandate and vacates the Board's determination "the modifications which have been made . . . since notice of public hearing was published do not significantly change the meaning of the proposed amended regulation within the meaning of the Health and Safety Code § 40726." (AR 19712.). The Court remands the matter to the Board for further proceedings consistent with this order. Pending such further proceedings, the Board's Resolution otherwise remains in effect.

Dated: NOV 06 2017

AMY D. HOGUE, JUDGE

AMY D. HOGUE
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/06/17			**DEPT.** 86
HONORABLE AMY D. HOGUE	JUDGE	F. BECERRA	DEPUTY CLERK
HONORABLE	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
	Deputy Sheriff		Reporter

BS161399

COMMUNITIES FOR A BETTER

VS

VS

SOUTH COAST AIR MANAGEMENT DISTRICT

Plaintiff Counsel: NO APPEARANCES

Defendant Counsel:

NATURE OF PROCEEDINGS:

HEARING ON PETITION FOR WRIT OF MANDATE
- RULING ON SUBMITTED MATTER

The Court, having taken the above-matter under submission on November 1, 2017, now makes its ruling as follows:

The petition for a writ of mandate is granted, in part, for the reasons set forth in the document entitled ORDER GRANTING THE PETITION FOR A WRIT OF MANDATE IN PART which is signed and filed this date and incorporated herein by reference as the order of the Court.

Petitioner's exhibit 1 is ordered returned forthwith to the party who lodged it, to be preserved unaltered until a final judgment is rendered in this case and is to be forwarded to the court of appeal in the event of an appeal.

Administrative record to be picked up directly from Department 86 within 10 days from this order.

Counsel for petitioners is to prepare, serve, and lodge the proposed judgment within ten days. The Court will hold the proposed judgment at least ten days for objections.

CLERK'S CERTIFICATE OF MAILING

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/06/17			**DEPT.** 86
HONORABLE AMY D. HOGUE	JUDGE	F. BECERRA	DEPUTY CLERK
HONORABLE	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
	Deputy Sheriff		Reporter

BS161399

COMMUNITIES FOR A BETTER

VS

VS
SOUTH COAST AIR MANAGEMENT DISTRICT

Plaintiff Counsel: NO APPEARANCES

Defendant Counsel:

NATURE OF PROCEEDINGS:

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the above dated minute order and ORDER GRANTING THE PETITION FOR A WRIT OF MANDATE IN PART upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: November 6, 2017

Sherri R. Carter, Executive Officer/Clerk

By: F. Becerra_____
F. Becerra

Michael J. Carroll
LATHAM & WATKINS
650 Town Center Drive, Suite 2000
Costa Mesa, CA 92626

MINUTES ENTERED
11/06/17
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/06/17			**DEPT.** 86
HONORABLE AMY D. HOGUE	JUDGE	F. BECERRA	DEPUTY CLERK
HONORABLE	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
	Deputy Sheriff		Reporter

BS161399

COMMUNITIES FOR A BETTER

VS

VS
SOUTH COAST AIR MANAGEMENT DISTRICT

Plaintiff Counsel: NO APPEARANCES

Defendant Counsel:

NATURE OF PROCEEDINGS:

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MINUTES ENTERED
11/06/17
COUNTY CLERK