

FILED
LOS ANGELES SUPERIOR COURT

APR 04 2001

JOHN A. CLARKE, CLERK


BY S. BARRETT, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CITY OF BURBANK; PUBLIC WORKS) BS 060 960
DEPARTMENT,) [Related Case No. BS 060 957]
Petitioner,) STATEMENT OF DECISION
vs.)
STATE WATER RESOURCES CONTROL)
BOARD; and CALIFORNIA REGIONAL)
WATER QUALITY CONTROL BOARD)
FOR THE LOS ANGELES REGION,)
Respondents.)

This matter came regularly before this court on August 31 and September 1, 2000 for hearing. Melissa A. Thorme and Nicole E. Granquist of Downey, Brand, Seymour & Rohwer LLP, appeared as attorneys for Petitioner City of Burbank, Marilyn H. Levin and Gregory Newmark of the Attorney General's Office appeared as attorneys for Respondents State Water Resources Control Board and the California Regional Water Quality Control Board, Los Angeles Region. The record of the administrative proceedings was received into evidence and examined by the Court, arguments were presented and heard, and the Court took the matter under submission. On November 30, 2000, the Court filed its

1 Decision on Submitted Matter and ordered counsel for Petitioner to
2 prepare, serve and lodge a proposed Statement of Decision, Judgment and
3 Writ, on or before December 14, 2000. Respondents were given to
4 December 28, 2000, to serve and file objections. Respondents filed
5 lengthy objections on January 19, 2001, and Petitioners lodged a revised
6 proposed Statement of Decision, Judgment and Writ, as well as a Response
7 to Respondent's objections on February 13, 2001. After consideration of
8 all of the above, the Court now signs and files this Statement of
9 Decision.¹

10 **I THE PERMITS AT ISSUE HEREIN**

11 Petitioner, City of Los Angeles. Petitioner City of Burbank,
12 Public Works Department ("City"), owns and operates the City's
13 wastewater treatment plant, the Burbank Water Reclamation Plant
14 ("Burbank Plant"). The Burbank Plant utilizes a tertiary treatment
15 system that consists of comminution, primary clarification, activated
16 sludge biological process, secondary clarification, filtration,
17 chlorination and de-chlorination. Any tertiary treated effluent from
18 the Burbank Plant that is not reclaimed is discharged into the Burbank
19 Western Wash, located several miles upstream of its confluence with the
20 Los Angeles River.

21 Wastewater discharges are regulated by permits issued by the
22 Regional Water Quality Control Board ("Regional Board"), and contain
23 restrictions, or effluent limits, which describe exact levels of what
24 can be discharged by a treatment plant. These permits normally expire
25 and are re-issued every five years. Reissued permits may contain new

26 _____
27 ¹Citations to the Administrative Record and/or to statutory or regulatory authority are intended to provide
28 examples of, but not necessarily reference all of, the factual or legal bases for the rulings contained herein. The Court
in no way intended to limit the basis of this decision to only those factual or legal citations specifically included herein.

1 requirements if warranted due to changes in the law or in the
2 environment affected by the discharge.

3 The Burbank Plant was previously regulated under NPDES Permit,
4 Order No. 96-050, issued by the Regional Board on July 15, 1996.
5 (AR 2729-2757.) Pursuant to the Regional Board's implementation of a
6 Watershed Management Initiative to address water quality protection in
7 the Los Angeles region, a new order was prepared to replace Burbank's
8 then existing NPDES permit. On July 2, 1998, the Regional Board adopted
9 Burbank's replacement Permit, Order No. 98-052. (AR 3106-3127.) The
10 new Permit included a Self Monitoring and Reporting program as well as
11 a Fact Sheet detailing the specific statutes, rules and regulations
12 applicable to the discharge. (AR 3135-3147, 2782-2794.)

13 On September 17, 1998, the Regional Board adopted a Time Schedule
14 Order applicable to the Burbank Water Reclamation Plant, which included
15 interim limits and compliance schedules for seven constituents.
16 (AR 3475-3479.) The Time Schedule Order allowed Burbank to conduct
17 studies to determine how to achieve compliance or request revised
18 limits, if site-specific objectives could be justified. On October 13,
19 1998, Burbank filed a petition for review of the Time Schedule Order
20 requesting that the State Water Resources Control Board ("State Board")
21 require the Regional Board to modify the Burbank Permit to include
22 compliance schedules within the permit instead of in a separate order.
23 (AR 3500.) On December 2, 1998, Burbank petitioned the State Board for
24 a stay of its Permit. (AR 3480-3494.) The State Board did not grant
25 Burbank's petition for review or request for stay. However, to
26 accommodate Burbank, the State Board agreed to "waive" the argument and
27 essentially "deem" that the State Board has declined to review the
28 appeal.

1 Judicial Appeal.

2 On December 23, 1999, Burbank filed a Petition for Writ of Mandate
3 and application for stay challenging their Permit and Time Schedule
4 Order. On December 29, 1999, this Court issued a stay of the contested
5 effluent limits for the Burbank Plant.

6 Burbank challenged its reissued Permit and Time Schedule Order on
7 the grounds that the waste discharge requirements contained in the
8 permits were overly stringent, costly, unreasonable, and unlawful under
9 both state and federal law. Specifically, Burbank challenged 31 of the
10 effluent limitations in its Permit (the "Contested Effluent Limits") as
11 well as other permit provisions.

12 **II APPLICABLE FEDERAL & STATE STATUTORY SCHEME**

13 The Clean Water Act ~ 33 U.S.C. § 1251, et seq. _

14 The Clean Water Act ("CWA") established the National Pollutant
15 Discharge Elimination System ("NPDES") that requires permits for any
16 discharge of pollutants from a point source to water under federal
17 jurisdiction pursuant to Section 402 of the CWA. (33 U.S.C.
18 § 1342(a)(1) and (b).) The legislative goal of the CWA is to protect
19 the quality of the Nation's surface waters by ultimately prohibiting the
20 discharge of pollutants from point sources to waters of the United
21 States and forbidding the discharge of toxic pollutants in toxic
22 amounts. (33 U.S.C §§ 1251(a)(1) and (3), 1311(a).)

23 NPDES Permitting Scheme Under Federal Law

24 The NPDES program was created in 1972 as a federal permit program
25 designed to regulate the discharge of pollutants. (33 U.S.C. § 1342; 40
26 C.F.R. § 122, et seq.) Under the NPDES program, discharges of
27 pollutants are prohibited unless discharged in compliance with an NPDES
28 permit. (33 U.S.C. § 1311(a).)

1 The CWA provides that states can implement a permitting program of
2 their own if certified by the Federal Environmental Protection Agency
3 ("EPA"). (33 U.S.C. § 1342(b).) The EPA is charged with the
4 responsibility of administering the NPDES program, unless a state-
5 qualified NPDES program is authorized to implement the EPA requirements.
6 (33 U.S.C. § 1251(d).) Since 1973, California has had an approved NPDES
7 program.

8 The Porter-Cologne Water Quality Control Act

9 California participates in the NPDES scheme pursuant to the Porter-
10 Cologne Water Quality Control Act. (California Water Code, §§ 13160-
11 13170, 13200-13263.6, 13370-13389.) The Porter-Cologne Act and its
12 regulations implement CWA Programs, and provide for consistency with the
13 federal CWA. The Act is intended to protect, restore and prevent
14 degradation of the quality and beneficial uses of the waters of the
15 State. (Water Code, §§ 13000, 13050(f), 13241, 13263.)

16 Water Quality Control Plans

17 Water quality standards consist of the designated uses of the water
18 quality criteria for such waters based upon the uses. (33 U.S.C.,
19 § 1313(c)(2)(A).) Pursuant to the CWA § 304(a), the EPA publishes
20 criteria documents as guidance to states adopting water quality
21 standards. (33 U.S.C., § 1314(a).) States may use these guidance
22 documents to adopt state-specific standards and then submit the state-
23 adopted water quality standards to the EPA for approval. After gaining
24 EPA approval, the state standard becomes the applicable water quality
25 standard. (33 U.S.C., § 1313(c)(3).)

26 The Regional Boards are responsible for the formulation and
27 adoption of water quality control plans covering each of the 16 planning
28 basins. (Water Code, § 13240.) The plans are subject to review and

1 approval by the State Board. (Water Code, § 13245.) As directed by the
2 CWA, the water quality standards for each region of California are set
3 forth in these regional water quality control plans or Basin Plans. The
4 Basin Plans are adopted by the respective Regional Board after a public
5 hearing. (Water Code, §§ 13240, 13244, 13170, 13050(j).) Notice of such
6 hearing must be published pursuant to Government Code section 6061.
7 (Water Code, § 13244.)

8 The Los Angeles Region Basin Plan ("Basin Plan") is set forth in
9 the Water Control Plan for the Coastal Watersheds of Los Angeles and
10 Ventura Counties (Region 4). This Basin Plan was adopted by the
11 California Regional Water Quality Control Board, Los Angeles Region, on
12 June 13, 1994 (AR 3601-3836), approved by the State Board on
13 November 17, 1994, approved by the State Office of Administrative Law on
14 February 23, 1995, and submitted to the EPA. At the time that the
15 Burbank Permit was issued for the Burbank Plant, EPA had not yet
16 approved of the 1994 Basin Plan.

17 The Basin Plan sets forth the existing, intermittent, and potential
18 beneficial uses for the waters of the State as well as the water quality
19 objectives. The objectives are the standards that must be implemented.
20 (Water Code, § 13242.) The Basin Plan also incorporates the State
21 Board Anti-Degradation Policy - Resolution No. 68-16, the Sources of
22 Drinking Water Policy - Resolution No. 88-63, and the Regional Board's
23 Resolution No. 89-003 - Sources of Drinking Water Policy. (AR 3682,
24 3785, 3781.) Water quality control plans must conform to policies set
25 forth in Water Code section 13000 *et seq.* and state policies for water
26 quality control. (Water Code, §§ 13240, 13001.)

27 The Basin Plan lists the existing and potential beneficial uses for
28 the Los Angeles River and the Los Angeles River Estuary. (AR 3637-3639,

1 Basin Plan p. 2-10, AR 3646.) Such uses include municipal and domestic
2 supply and contact water recreation and warm fresh water habitat.

3 California NPDES Permits

4 Issuing waste discharge permits is the principal means of both
5 regulating activities that may affect water quality, and implementing
6 water quality control plans. Under state law, the permits are called
7 "waste discharge requirement" or "WDRs". Under federal law, the permits
8 are called NPDES permits. An NPDES permit is required for all point
9 source discharges of pollutants to surface waters. (33 U.S.C., § 1342.)

10 The CWA recognizes that the states should have a significant role
11 in protecting their own natural resources (33 U.S.C., § 1251(b)), and
12 authorizes states to adopt more stringent controls on discharges into
13 the waters of the state than are required under the CWA. This was
14 codified by the Porter-Cologne Act. Once adopted and approved by EPA,
15 these state water quality objectives become the enforceable standard
16 under federal law. (33 U.S.C., § 1313(c).)

17 Los Angeles River & Estuary

18 The existing and potential beneficial uses of the Los Angeles River
19 and Estuary include contact and non-contact recreation, warm freshwater
20 habitat, wildlife habitat, wetland habitat, ground water recharge,
21 marine habitat, rare threatened or endangered species, migration of
22 aquatic organisms, spawning, reproduction and/or early development,
23 shellfish harvesting, industrial service supply, and commercial and
24 sport fishing. The Los Angeles River and the Burbank Western Wash also
25 have potential municipal and domestic supply designation under State
26 Board Order No. 88-63 and Regional Board Resolution No. 89-003, both of
27 which are incorporated into the 1994 Basin Plan, and stating that these
28 ///

1 "designations may be considered for exemptions at a later date."
2 (AR 3646, 3648, 3639-3640.)

3 **III DECISION**

4 The Petition for writ of mandate is granted.

5 To begin with, it appears that in enacting the CWA, Congress for
6 various reasons (some noted in Burbank's Reply brief) intended to treat
7 publicly owned treatment works ("POTWs") less stringently than
8 industrial dischargers by including some requirements specific only to
9 POTWs and by excluding POTWs from other requirements. (See, e.g., 33
10 U.S.C., § 1311(b)(1)(A)-(C) (setting forth the "Phase I" requirements
11 that had to be implemented by July 1, 1997).)

12 It is further apparent that neither the state, nor federal statutes
13 and regulations can be viewed as isolated regulatory schemes.
14 Respondents' issuance of the NPDES permits at issue herein must comply
15 with both. It does not.

16 **Required Factor Analysis**

17 Both California and federal law require consideration of economic
18 and technological feasibility and costs, as well as environmental
19 factors in issuing NPDES permits. (See, e.g., CWA §§ 208, 303, 305(b).)
20 The NPDES permitting requirements at CWA § 402 expressly incorporate the
21 applicable requirements contained in 33 U.S.C. §§ 1311, 1312, 1316,
22 1317, 1318 and 1343, including those regarding economic, social and
23 environmental impacts. (33 U.S.C., § 1342(a)(1)(A) and (b)(1)(A).)

24 Similarly, California law also requires consideration of these
25 factors. Water Code § 13000 provides that "activities and factors which
26 may affect the quality of the waters of the state shall be regulated to
27 attain the highest water quality which is reasonable, considering all
28 demands being made and to be made on those waters and the total values

1 involved, beneficial and detrimental, economic and social, tangible and
2 intangible." (Water Code, §§ 13000, 13001.)

3 Water Code § 13263(a) requires regional boards to "take into
4 consideration the beneficial uses to be protected, the water quality
5 objectives reasonably required for that purpose, other waste discharges,
6 [and] the need to prevent nuisance" when establishing effluent limits in
7 a waste discharge permit. Water Code § 13263(a) also expressly requires
8 Regional Boards to take into consideration "the provisions of
9 Section 13241" when adopting waste discharge requirements.

10 Water Code § 13241 provides that, "Each regional board shall
11 establish such water quality objectives in water quality control plans
12 as in its judgment will ensure the reasonable protection of beneficial
13 uses and the prevention of nuisance; however, it is recognized that it
14 may be possible for the quality of water to be changed to some degree
15 without unreasonably affecting beneficial uses."

16 The factors to be considered by a Regional Board pursuant to
17 Section 13241 in establishing and imposing water quality objectives
18 "shall include", but not necessarily be limited to, all of the
19 following: (a) past, present and probable future beneficial uses of
20 water; (b) environmental characteristics of the hydrographic unit under
21 consideration, including the quality of water available thereto; (c)
22 water quality conditions that could reasonably be achieved through the
23 coordinated control of all factors which affect water quality in the
24 area; (d) economic considerations; (e) the need for developing housing
25 within the region; and (f) the need to develop and use recycled water.
26 (Water Code, §§ 13241, 13263(a).)

27 The Regional Board was, thus, statutorily required to consider
28 certain factors, including, economics, reasonably achievable water

1 quality conditions, potential environmental impacts, alternatives to the
2 proposed requirements, and mitigation measures for any requirements
3 adopted. The administrative record does not contain any evidence
4 demonstrating that the Regional Board took these factors into
5 consideration when developing the Contested Effluent Limits in the
6 Burbank Permit, or when adopting the water quality objectives upon which
7 these effluent limits were based. The Regional Board made no findings
8 concerning the factors, nor, that the Contested Effluent Limits in the
9 Permit were reasonable under the given circumstances. The failure of
10 the Regional Board to set reasonable requirements, as required under
11 Water Code § 13000, has resulted in regulation which forces Petitioner
12 to incur substantial additional costs for additional treatment
13 processes. At the same time, there is an absence of evidence that such
14 cost is warranted by the environmental benefit to be gained therefrom.

15 Narrative Toxicity Standards and Water Quality Criteria

16 Permit requirements, including effluent limitations, may be
17 narrative, numeric or both, although certain water quality-based
18 requirements in permits are to be expressed in numeric form. (40 C.F.R.
19 §§ 122.2 and 122.44(d).) Where narrative criteria are adopted in lieu
20 of the numeric toxic criteria required under CWA § 303(c)(2)(B),
21 Respondents had to show in their Basin Plan how they intended to
22 regulate the discharge of toxic pollutants from point sources. (40
23 C.F.R. § 131.11(a)(2).)

24 Respondents failed to state in the Basin Plan how they intended to
25 translate the narrative objective into numeric limits, such as are
26 imposed on Burbank by the NPDES permits. Failure to identify the method
27 by which Respondents intended to regulate point source discharges of
28 toxic pollutants based on narrative water quality criteria violates 40

1 C.F.R. § 131.11(a) (2). While it may be too late for Petitioner to attack
2 the Basin Plan directly, petitioner may properly challenge the Basin
3 Plan's provisions, or lack thereof, on any legal ground, to the extent
4 Petitioner's NPDES permit and/or permit process is affected thereby.

5 Respondents are required to "bridge the analytical gap" between the
6 narrative requirement and its translated numeric equivalent. (See, e.g.,
7 *Topanga Assn. for a Scenic Community v. County of Los Angeles*, 11 Cal.3d
8 506, 515 (1974).) That is, Respondents must show how they derived a
9 specific numeric effluent limitation from a narrative requirement. In
10 this case, the Burbank Permit provides no explanation as to how specific
11 imposed numeric effluent limitations were derived. The Burbank Permit
12 provides no guidance at all – not even a source reference is provided.
13 In sum, the Burbank permit fails to specify the methodology used to
14 arrive at the effluent limitations imposed.

15 Furthermore, although the Respondents may adopt Section 304(a)
16 guidance criteria as water quality objectives in the Basin Plan or
17 utilize federally promulgated criteria (such as National Toxics Rule
18 criteria that are specifically applicable to California) to derive
19 effluent limitations, they must consider whether the values in EPA's
20 federal water quality criteria are applicable in light of and reflect
21 site-specific factors. (See, e.g., Water Code, §§ 13241, 13263(a),
22 C.W.A. §§ 208(E), 303(C) (2).)

23 Permit Requirements must include Necessary Findings and Evidence.

24 Petitioner alleges that the contested effluent limits in its permit
25 are not supported by findings and evidence in the record.

26 When adopting permit requirements, the basis for such action must
27 be articulated in the permit findings and fact sheets, and supported by
28 evidence in the record. (See, 40 C.F.R. §§ 124.7, 124.8(b) (4), and

1 124.56(a); *Topanga Assn., supra*, 11 Cal.3d at 515; *California Edison v.*
2 *SWRCB*, 116 Cal.App. 751, 761 (1981); see also, *In the Matter of the*
3 *Petition of City and County of San Francisco, et al.*, State Board Order
4 No. WQ 95-4 at 10 (Sept. 21, 1995). The record reveals that the
5 Respondents failed to include calculations and other necessary
6 explanation of the derivation of effluent limits contained in the
7 permits. There are no findings as to how a specific use or uses would
8 be benefitted by the contested effluent limits and non regarding the
9 factors to be considered as outlined *supra*, at pages 7 through 8.

10 The Respondents' actions were not properly supported by findings or
11 by evidence in the record.

12 Daily Maximum Limits

13 Although federal regulations provide that maximum daily and average
14 monthly discharge limitations are proper for all dischargers other than
15 from publicly owned wastewater treatment plants, (40 C.F.R.,
16 § 122.45(d)(1)), for continuous discharges from publicly owned
17 wastewater treatment plants, such as Petitioner's, all permit effluent
18 limits "shall" be stated as average weekly and average monthly discharge
19 limitations, unless impractical. (40 C.F.R., § 122.45(d)(2).)

20 By including daily maximum limits, the Respondents proceeded in a
21 manner contrary to law, particularly when the record contains no
22 findings or evidence that the use of average weekly or average monthly
23 limits was impracticable. Indeed, the fact that the Regional Board
24 actually imposed monthly average limitations upon some of the Contested
25 Effluent Limits, such as endrin, disproves the impracticability of
26 utilizing average monthly discharge limitations. (AR 3117.) The lack
27 of evidence regarding impracticability is significant because Petitioner
28 has repeatedly emphasized that the use of monthly average limits by the

1 Regional Board, similar to the monthly averages utilized in Burbank's
2 prior permit, instead of daily maximum limits would have solved their
3 compliance problems for many of the Contested Effluent Limits.

4 Compliance Schedules and Permit Modifications

5 Schedules allowing time for compliance were necessary in this case
6 because the Burbank Plant could not achieve immediate compliance with
7 the permit requirements. (See, e.g., 23 C.C.R., § 2231(a).) Instead of
8 including compliance schedules and interim limits in the Burbank permit,
9 the Regional Board adopted a separate Time Schedule Order, even though
10 state and federal law allow the use of such schedules in permits.
11 (Water Code, § 13263(c); 23 C.C.R., § 2231(a); 40 C.F.R., § 122.47(a).)
12 Respondents' attempt to modify the City's permit requirements through
13 the adoption of a separate order instead of actually modifying the
14 Burbank permit were contrary to federal regulations and exposed Burbank
15 to citizen suits and civil and criminal penalties. (40 C.F.R.,
16 § 122.62; see also, Water Code, §§ 13263, 13385; *Citizens for a Better*
17 *Environment-California v. Union Oil*, 83 F.3d 1111, 1119 (9th Cir. 1996).)
18 Furthermore, the Regional Board abused its discretion by not including
19 compliance schedules in the permits when there was evidence in the
20 record that it would have been impossible for Burbank to immediately
21 comply with the permit's requirements. (AR 1198, 2592.) On remand, the
22 Regional Board should include any necessary compliance schedules in the
23 Burbank Permit.

24 Specifying the Manner of Compliance

25 California law provides that "no waste discharge requirement or
26 other order of the regional board . . . shall specify the design,
27 location, type of construction, or particular manner in which compliance
28 may be had." (Water Code, § 13360(a).) Contrary to this state law, the

1 Respondents specified the manner of compliance in the Burbank Permit.
2 (Ar 3120.) By specifying the manner of compliance, the Respondents
3 violated Water Code § 13360(a). (See, *Tahoe-Sierra Preservation Council*
4 *v. SWRCB*, 210 Cal.App.3d 1421, 1438 (1989).)

5 Administrative Procedures Act

6 A principal controverted issue at trial was whether Respondents
7 failed to proceed in the manner required by law by acting pursuant to
8 policies not duly adopted in accordance with the Administrative
9 Procedures Act. The issuance of waste discharge requirements (NPDES
10 permits) is not subject to the Administrative Procedures Act. (Gov't.
11 Code, § 11352(b).)

12 Burbank, however, contends that the Regional Board improperly
13 circumvented the Administrative Procedures Act, where, as here, in
14 setting Effluent Limits, it adopted numerical effluent limits derived
15 verbatim from informal water quality criteria (e.g., federal water
16 quality guidance, rescinded state-wide plans, drinking water standards
17 and National Toxics Rule numbers, not adopted specifically for
18 California), none of which have been formally adopted into the Basin
19 Plans as water quality objectives, or at least as part of an approved
20 methodology for translating the narrative water quality objectives
21 contained in the Basin Plan.

22 The Petitioner has a point, and this Court has determined that the
23 Respondents failed to proceed in a manner required by law. The Regional
24 Boards must look to the Basin Plans' water quality objectives in issuing
25 the permits. Using the criteria and guidance as was done here,
26 Respondents have essentially, *de facto*, amended, supplemented and/or
27 revised the 1994 Basin Plan by creating new numeric water quality
28 objectives. This cannot be done without compliance with the

1 Administrative Procedures Act pursuant to Government Code section
2 11353(b)(4), and the Porter Cologne Water Quality Control Act. (Gov't.
3 Code, § 11353; Water Code, § 13000 et seq.)

4 Pursuant to Water Code section 13244, the Regional Board must hold
5 a public hearing per Government Code section 6061 on water quality
6 control plans and consider the factors described in Water Code
7 section 13241, the need to develop and use recycled water and what
8 standards may be appropriate in setting effluent limits.

9 CEQA

10 Respondents cannot ignore and must consider environmental factors
11 in issuing waste discharge permits pursuant to the statutes cited
12 earlier at page 7. However, Water Code § 13389 specifically exempts
13 NPDES Permits from Chapter 3 (commencing with Pub. Res. Code, § 21100)
14 of Division 13 of CEQA and Respondents need not comply with CEQA
15 procedures. (See also, 14 C.C.R., §§ 15260, 15263 (exempting
16 Respondents "from the requirement to prepare an EIR or a negative
17 declaration prior to adoption of waste discharge requirements.")

18 The Section 13389 exemption is consistent with federal law, which
19 provides that NPDES permits are exempted from compliance with the
20 National Environmental Policy Act ("NEPA"). (42 U.S.C., § 4321 et seq.)
21 Requiring state-issued NPDES permits to comply with the totality of CEQA
22 and its procedures would frustrate Congress' intent to avoid encumbering
23 permit issuance with further environmental review.

24 Furthermore, to the extent that Petitioner argues that the water
25 quality objectives in the Basin Plan were adopted in violation of CEQA,
26 the statute of limitations has long since run on any CEQA challenge to
27 the Basin Plan. The longest possible limitations period under CEQA is


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1 180 days. (Pub. Res. Code, § 21167.) The Basin Plan was approved in
2 1995.

3 **IV ORDER**

4 It is hereby ordered, adjudged and decreed that Judgment be entered
5 granting Petitioners' Petition for Writ of Mandamus and that a Writ
6 issue commanding the Respondents to vacate the Contested Effluent Limits
7 at issue herein, the related Time Schedule Order; and that effluent
8 limitations, and compliance schedules (as necessary) be adopted and
9 incorporated into a new permit for Burbank, after a new hearing, in
10 conformance with this Decision and the accompanying Judgment and Writ,
11 and in compliance with the applicable federal and state law.

12 DATED: April 4, 2001

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16 Dzintra I. Janavs
17 Judge of the Superior Court
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