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 8 State Water Board Office of Enforcement; Michael
 Thomas, Acting Executive Officer; Harvey C. Packard,
 9 Prosecution Team Lead

FILED
 SEP 10 2007
 SAN LUIS OBISPO SUPERIOR COURT
 BY *[Signature]*
 D. Subia, Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 COUNTY OF SAN LUIS OBISPO

12 PROHIBITION ZONE LEGAL DEFENSE)
 13 FUND aka CITIZENS FOR CLEAN WATER;)
 LOS OSOS COMMUNITY SERVICES)
 14 DISTRICT (hereinafter "LOCSD"); ALAN)
 MARTYN; JACQUELINE MARTYN; RHIAN)
 15 GULASSA; JOHN DERGARABEDIAN; JAN)
 DERGARABEDIAN; CINTHEA T.)
 16 COLEMAN; LAURIE MCCOMBS;)
 ANTOINETTE GRAY PAYNE; BRUCE)
 17 PAYNE; EDWIN I. INGAN; JUNE Q. INGAN;)
 CLINT KOCH; ANN CALHOUN;)
 18 CHRISTOPHER ALLEBE; E.E. ALLEBE;)
 CHARLES E. WILKERSON; NORMA)
 19 WILKERSON; CDO RECIPIENTS #1040;)
 JULIE G. MILLER; LAWRENCE KLEIGER;)

Case No. CV070472

~~PROPOSED~~ ORDER ON
 RESPONDENTS' DEMURRER, MOTION
 TO STRIKE, AND REQUEST FOR
 JUDICIAL NOTICE, AND "PETITIONERS'
 SUPPLEMENTAL POINTS AND
 AUTHORITIES REGARDING CASE
 MANAGEMENT ISSUES"

Petitioners,

v

22 REGIONAL WATER QUALITY CONTROL)
 23 BOARD, CENTRAL COAST REGION;)
 STATE WATER BOARD OFFICE OF)
 24 ENFORCEMENT; MICHAEL THOMAS,)
 Acting Executive Director; HARVEY C.)
 25 PACKARD, Prosecution Team Lead; and)
 DOES 1-50, inclusive,)

Respondents.

1 Respondents' Demurrer, Motion to Strike Petitioners' Petition for Writ of Mandate, and
2 Request for Judicial Notice, and "Petitioners' Supplemental Points And Authorities Regarding
3 Case Management Issues" and the continued Case Management Conference in this matter came
4 on for hearing on August 22, 2006 in Department 2 of the above-entitled court, the Honorable
5 Barry T. LaBarbera presiding. Shaunna Sullivan, Esq. and Emily Mouton, Esq. of Sullivan &
6 Associates, appeared on behalf of Petitioners Prohibition Zone Legal Defense Fund aka Citizens
7 For Clean Water; Los Osos Community Services District (LOCSD); Alan Martyn; Jacqueline
8 Martyn; Rhian Gulassa; John Dergarabedian; Jan Dergarabedian; Cinthea T. Coleman; Laurie
9 McCombs; Antoinette Gray Payne; Bruce Payne; Edwin I. Ingan; June Q. Ingan; Clint Koch;
10 Ann Calhoun; Christopher Allebe; E.E Allebe; Charles E. Wilkerson; Norma Wilkerson; "CDO
11 Recipients #1040"; Julie G. Miller; and Lawrence Kleiger. Deputy Attorney General Michael W.
12 Hughes appeared on behalf of Respondents Regional Water Quality Control Board, Central
13 Coast Region (hereinafter Regional Board); State Water Board Office of Enforcement; Michael
14 Thomas; and Harvey C. Packard.

15 Having read and considered all the papers submitted by the parties and having heard
16 argument of counsel,

17 IT IS ORDERED THAT:

18 The demurrer is sustained without leave to amend as to Respondents State Water Board
19 Office of Enforcement, Michael Thomas and Harvey C. Packard on the grounds that Petitioners
20 cannot state a cause of action against these Respondents (Code Civ. Proc., § 430.10, subd. (e))
21 because they are not proper parties to this action pursuant to *State v. Superior Court* (1974) 12
22 Cal.3d 237, 255 (*Veta*). Respondents State Water Board Office of Enforcement, Michael
23 Thomas and Harvey C. Packard are hereby ordered dismissed from the Petition with prejudice.

24 The demurrer is sustained with leave to amend as to Petitioner Ann Calhoun on the
25 grounds that she failed to state a cause of action against Respondents (Code Civ. Proc., § 430.10,
26 subd. (e)) because she failed to allege facts establishing a beneficial interest.

27 The demurrer on the ground of lack of beneficial interest is overruled as to Petitioners
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1 John DerGarabedian, Jan DerGarabedian, Antoinette Gray Payne, and Bruce Payne.

2 The demurrer is sustained with leave to amend as to Petitioners Charles E. Wilkerson and
3 Norma Wilkerson on the grounds that they failed to state a cause of action against Respondents
4 (Code Civ. Proc., § 430.10, subd. (e)) because they failed to exhaust their administrative
5 remedies.

6 The demurrer is sustained with leave to amend as to Petitioners "CDO Recipients #1040"
7 on the grounds that they have not properly pled reasons to withhold their identities (Code Civ.
8 Proc., § 430.10, subd. (d)).

9 The demurrer is sustained with leave to amend as to Petitioners' claims under Code of
10 Civil Procedure section 1085 on the grounds that Petitioners failed to state a cause of action
11 against Respondents (Code Civ. Proc., § 430.10, subd. (e)) under Code of Civil Procedure
12 section 1085.

13 The special demurrer is sustained with leave to amend as to the grounds of uncertainty
14 (Code Civ. Proc., § 430.10, subd. (f)) because Petitioners incorporated other pleadings rather
15 than stating their allegations in one pleading.

16 Petitioners' request for relief made in "PETITIONERS' SUPPLEMENTAL POINTS
17 AND AUTHORITIES REGARDING CASE MANAGEMENT ISSUES" is denied because the
18 Court has not changed its mind regarding its June 15, 2007 ruling denying Petitioners unnoticed
19 Ex Parte Application for Alternative Writ of Mandate in this matter.

20 Respondent Regional Board rather than Petitioners shall prepare the administrative
21 record. Respondent Regional Board is granted two weeks to serve Petitioners with an estimate of
22 the cost of preparing the administrative record for this action. Petitioners shall pay the cost of
23 preparing the administrative record. Respondent Regional Board shall have 90 days from the
24 date Petitioners pay the cost of preparing the administrative record to submit a copy of the
25 administrative record to the Court and Petitioners. The administrative record may be submitted in
26 electronic format.

27 The following is stricken from the Petition: Petitioners' prayer for relief requesting that
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1 the Court issue a writ requiring Respondents to "produce the Administrative Record" as it seeks
2 a remedy not available to these Petitioners. (Petition, 16:19-22 [page 16, paragraph (1)(d)] &
3 17:13-15 [page 17, paragraph (1)(d)].) In light of the Court's ruling, Respondents' Motion to
4 Strike regarding all other issues is ordered off calendar.

5 The following requests for judicial notice are granted:

6 Petitioners' Exhibit A (Letter dated June 15, 2007 from Theodore A. Cobb, Assistant
7 Chief Counsel, State Water Resources Control Board);

8 Respondent's Exhibit C (Order Denying Ex Parte Application for Alternative Writ of
9 Mandate in *Prohibition Zone Legal Defense Fund, et al. v. Regional Water Quality
10 Control Board, et al.*, Case Number CV 070472, Filed June 15, 2007);

11 Respondents' Exhibit D (Entry of Dismissal in *Alan Martyn, et al. v. Regional Water
12 Quality Control Board, et al.*, Case Number CV 060992, Filed March 7, 2007);

13 Respondents' Exhibit E (Notice of Ruling in *Alan Martyn, et al. v. Regional Water
14 Quality Control Board, et al.*, Case Number CV 060992, Filed December 14, 2006); and

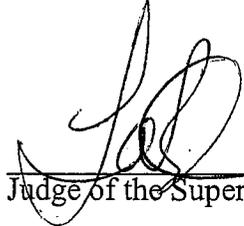
15 Respondents' Exhibit F (Minute Order in *Alan Martyn, et al. v. Regional Water Quality
16 Control Board, et al.*, Case Number CV 060992, Filed January 19, 2007).

17 All other requests for judicial notice are denied.

18 The Case Management Conference is continued to December 6, 2007 in Department 2 of
19 the above-entitled court at 9:00 am.

20 IT IS SO ORDERED.

21 Date: 9 10 07

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23 _____
24 Judge of the Superior Court

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