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15 UNITED STATES DISTRICT COURT

16 FOR THE CENTRAL DISTRICT OF CALIFORNIA

17
18 NATURAL RESOURCES DEFENSE COUNCIL)

19 Plaintiff,)

20 COUNTY OF LOS ANGELES AND LOS)
ANGELES COUNTY FLOOD CONTROL DIST.)

21 Plaintiff-Intervenors,)

22 NATIONAL ASSOCIATION OF CLEAN)
23 WATER AGENCIES,)

24 Plaintiff-Intervenors,)

25 v.)

26 STEPHEN L. JOHNSON, et al.,)

27 Defendants.)

No. 06-4843 PSG (JTLx)

Trial Date: October 7, 2008

NO HEARING REQUESTED

28
**STIPULATION AND REQUEST FOR ENTRY OF
CONSENT DECREE BY ALL PARTIES**

1 All parties in this litigation hereby stipulate to and request entry of the attached Consent
2 Decree, which has been executed by all parties. The Consent Decree would resolve all claims
3 asserted in this action by Plaintiff Natural Resources Defense Council ("NRDC") and by Plaintiff-
4 Intervenor National Association of Clean Water Agencies ("NACWA"), the County of Los Angeles
5 (the "County") and the Los Angeles County Flood Control District (the "District") against
6 Defendants, the U.S. Environmental Protection Agency and Stephen L. Johnson, its Administrator
7 (collectively "EPA"). The parties state as follows:

8 1. In August 2006, NRDC filed a Complaint for declaratory and injunctive relief against
9 EPA, asserting that EPA had failed to perform certain "nondiscretionary" duties imposed by sections
10 104(v) and 304(a)(9) of the Beaches Environmental Assessment and Coastal Health ("BEACH")
11 Act. 33 U.S.C. §§ 1254(v) and 1314(a)(9)(A). In its Request for Relief, NRDC asked the Court,
12 among other things, to: (1) declare that EPA has failed to meet statutory deadlines to initiate and
13 complete certain water quality studies and to publish revised water quality criteria; (2) compel EPA
14 to initiate and complete such studies by a court-ordered deadline; and (3) compel EPA to publish
15 revised water quality criteria (including a revised list of testing methods) for pathogens and pathogen
16 indicators for use in coastal recreation waters by a court-ordered deadline. The County, the District
17 and NACWA subsequently intervened and filed complaints alleging similar claims and seeking
18 similar relief.

19 2. After extensive arms-length negotiations, the parties have reached a global settlement
20 that would resolve all of the claims asserted against EPA in this matter. That settlement is embodied
21 in two separate documents: a Consent Decree – which requires entry by the Court – and a Settlement
22 Agreement – which does not require entry by the Court and which is provided to the Court for
23 informational purposes only. Among other things, the Consent Decree would impose a deadline of
24 October 15, 2012, by which EPA must issue new or revised recreational water quality criteria under
25 section 304(a)(9)(A). It also would require EPA to complete, by December 15, 2010, two specific
26 studies. The separate Settlement Agreement, among other things, requires EPA to complete 17 other
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28 STIPULATION TO ENTRY OF CONSENT DECREE

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1 studies relevant to the development of water quality criteria, also by December 15, 2010.

2 3. A Court should approve a settlement and enter a proposed consent decree "if it is fair,
3 reasonable, and equitable and does not violate the law or public policy." Sierra Club v. Elec.
4 Controls Design, Inc., 909 F.2d 1350, 1355 (9th Cir. 1990) (standard for judicial approval of consent
5 decree in CWA citizen suit); see also Earth Island Inst., Inc. v. Southern California Edison Co., 838
6 F. Supp. 458, 463 (S.D. Cal. 1993).

7 As long as the consent decree comes "within the general scope of the case made by
8 the pleadings," furthers the "objectives upon which the law is based," and does not
9 "violate the statute upon which the complaint was based," the parties' agreement may
10 be entered by the court.

11 Sierra Club, 909 F.2d at 1355 (citations omitted). In reviewing a settlement, inquiry is directed not
12 to whether the court itself would have reached the same result, but whether the proposed settlement
13 is a reasonable compromise and otherwise in the public interest. United States v. Akzo Coatings,
14 Inc., 949 F.2d 1409, 1435 (6th Cir. 1991). When the United States is a party to a consent decree, a
15 court "should pay deference to the judgment of the government agency which has negotiated and
16 submitted the proposed judgment." SEC v. Randolph, 736 F.2d 525, 529 (9th Cir. 1984).

17 4. The chief objective of the Clean Water Act, as amended by the BEACH Act, is to
18 "restore and maintain the chemical, physical and biological integrity of the Nation's waters." Section
19 101(a), 33 U.S.C. § 1251(a). The actions that will be undertaken by EPA pursuant to the Consent
20 Decree advance that objective, and all parties agree that the Consent Decree is fair, reasonable, and
21 consistent with applicable law.

22 WHEREFORE, the parties stipulate to entry of the Consent Decree and request the Court to
23 sign the decree where indicated and enter it as a judgment of the Court.

24 Respectfully submitted this 8th day of August, 2008

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26 Aaron Colangelo
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7 Proof of Service

8 I hereby certify that I caused a true and correct copy of this Stipulation to be served via
first-class mail on this date, August 8th, 2008, on the following counsel:

9 Keith J. Jones

General Counsel

10 NACWA

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12 I further certify that this document has been served electronically on all other counsel.

13 /s/ Ann Cole

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