

**FILED**

**OCT 21 2010**

CONNIE MAZZEI  
CLERK OF THE SUPERIOR COURT  
~~M. OLIVEREZ~~ DEPUTY

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7 MONTEREY COASTKEEPER

CASE MANAGEMENT CONFERENCE  
DATE: 3-11-2011  
TIME: 9:00 AM  
PLACE: Courtroom 15, 2<sup>nd</sup> Floor  
1200 Aguajito Rd. Monterey CA 93940

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF MONTEREY

11 MONTEREY COASTKEEPER, a project  
12 of The Otter Project, a nonprofit  
organization,  
13  
14 Petitioner-Plaintiff,  
15  
16 v.  
17 MONTEREY COUNTY WATER  
RESOURCES AGENCY, a public agency,  
Respondent-Defendant.

Case No.: **M108858**

**VERIFIED PETITION FOR WRIT  
OF MANDATE AND COMPLAINT  
FOR DECLARATORY JUDGMENT**

[Cal. Civ. Proc. Code § 1085 for violations  
of Cal. Water Code §§ 13246, 13260, and  
13264; Public Trust Doctrine; Abatement of  
Public Nuisance]

19 Petitioner-Plaintiff Monterey Coastkeeper hereby seeks a writ of mandate and judgment  
20 declaring that Respondent-Defendant Monterey County Water Resources Agency has violated  
21 and continues to violate the Porter-Cologne Water Quality Control Act, as well as its public trust  
22 fiduciary duties, by discharging pesticides, nutrients, sediments, pathogens, and other harmful  
23 agricultural pollutants into surface and subsurface waters in the Salinas River watershed at levels  
24 that exceed water quality standards and injure public health, fish and wildlife, and other  
25 beneficial uses of such waters. Petitioner-Plaintiff also hereby seeks a court order directing  
26 Respondent-Defendant to cease its unlawful discharges and to abate the public nuisance caused  
27 by these discharges. In support of this petition and complaint, Petitioner-Plaintiff alleges as  
28 follows:

1 **INTRODUCTION**

2 1. This case concerns the continuing conduct of the Monterey County Water  
3 Resources Agency in discharging harmful agricultural pollutants to surface water and  
4 groundwater within its jurisdiction. These toxic and injurious discharges violate the agency’s  
5 mandatory legal obligations, impair beneficial uses of the receiving waters, and cause injury to  
6 public health, welfare, and the environment, including to fish and wildlife that depend upon  
7 unpolluted water for their survival. Accordingly, Monterey Coastkeeper seeks a judicial  
8 determination that the agency’s harmful discharge practices violate California law, as well as a  
9 writ of mandate to enjoin Respondent-Defendant’s unlawful activities and compel compliance  
10 with applicable law.

11 **PARTIES**

12 2. Petitioner-Plaintiff Monterey Coastkeeper is a program of The Otter Project, a  
13 non-profit organization with approximately 3,000 members (“Monterey Coastkeeper”).  
14 Monterey Coastkeeper is part of The Waterkeeper Alliance, a national and international network  
15 of independent water “keepers” who champion clean water and healthy waterways. The  
16 Monterey Coastkeeper service area includes all of Monterey and Santa Cruz Counties, as well as  
17 portions of San Mateo, Santa Clara and San Benito Counties. Monterey Coastkeeper was  
18 formed to address issues of water quality within its service area, and it uses policy and legal  
19 advocacy to ensure that development, industrial, and urban activities do not impair the  
20 environmental needs of the communities that Coastkeeper serves. Since its inception, Monterey  
21 Coastkeeper has been engaged in advocating for effective government regulations, good public  
22 policy, and an active community role in protecting freshwater and marine waters alike.

23 3. Monterey Coastkeeper and its staff and members regularly use and enjoy waters  
24 within its service area for a variety of recreational, aesthetic, educational, and scientific  
25 purposes, including, but not limited to, hiking, fishing, swimming, boating, wildlife observation,  
26 scientific research, photography, nature study, and aesthetic appreciation. Monterey  
27 Coastkeeper and its staff and members intend to do all of the foregoing on an ongoing basis in  
28 the future and thereby do and will continue to derive recreational, aesthetic, scientific,

1 educational, conservational, and economic benefits from the waters affected by Respondent-  
2 Defendant's discharges. These benefits and the recreational, aesthetic, scientific, educational,  
3 conservational, and economic interests of Monterey Coastkeeper and its staff and members have  
4 been and, in the absence of relief from the court, will continue to be adversely affected by  
5 Respondent-Defendant's discharge practices in violation of its mandatory duties under state law.

6 4. Respondent-Defendant Monterey County Water Resources Agency ("MCWRA")  
7 is the primary water management agency for Monterey County. MCWRA is the successor-in-  
8 interest to the Monterey County Flood Control and Water Conservation District, which was  
9 created in 1947 by Chapter 699 of the Statutes. In 1990, the California Legislature created  
10 MCWRA by special state legislation, codified as Chapter 52 of the Appendix to the California  
11 Water Code, and conferred upon it broad powers to manage water supply and water quality in  
12 Monterey County, including in the northern Salinas Valley. MCWRA is responsible for  
13 managing, protecting, and enhancing water supply and water quality in the lower Salinas River  
14 watershed, as well as providing flood protection in the County of Monterey.

15 5. Among other things, MCWRA is authorized by state law to, and does, operate the  
16 Nacimiento and San Antonio Reservoirs for flood management and water supply purposes,  
17 including through periodic groundwater recharge. MCWRA provides water to agricultural  
18 growers and landowners within the Salinas River watershed and collects agricultural wastewater  
19 from growers and landowners for discharge into state waters. In particular, MCWRA operates  
20 the "Reclamation Ditch" and the "Blanco Drain," both of which channelize and convey  
21 contaminated agricultural wastewater from the point of generation on individual farmland in the  
22 lower Salinas River Valley to downstream receiving waters, including the Salinas River and  
23 Tembladero Slough.

#### 24 **JURISDICTION AND VENUE**

25 6. This court has jurisdiction over this action under California Code of Civil  
26 Procedure section 1085, California Code of Civil Procedure section 731, and California Civil  
27 Code section 3493.

1 7. Venue in this court is proper under California Code of Civil Procedure section  
2 395.

3 **BACKGROUND**

4 8. Agricultural discharges of pesticides, nutrients, sediment, pathogens, and other  
5 pollutants at levels that exceed applicable state water quality standards have contributed and  
6 continue to contribute to significant deterioration of water quality throughout the lower Salinas  
7 River watershed. These agricultural discharges have impacted both surface and subsurface  
8 waters. For many water bodies in the watershed, agriculture discharges are a primary source of  
9 degraded water quality conditions.

10 9. Agricultural pollution loads in the Salinas Valley watershed are higher than in  
11 other agricultural areas. In a statewide study of four agricultural areas, the California  
12 Department of Pesticide Regulation found that the Salinas study area has the highest percent of  
13 surface water sites with detected pyrethroid pesticides (85 percent), the highest percent of sites  
14 that exceed expected toxic levels (42 percent), and the highest application rate (by threefold) for  
15 active pesticide ingredients applied to the land (113 lbs/acre).

16 10. As a result of this ongoing agricultural pollution, nearly every surface water  
17 tributary and every receiving water within the lower Salinas River watershed is listed or  
18 proposed for listing as “impaired” under the section 303(d) of the federal Clean Water Act, 33  
19 U.S.C. 1313(d). An impaired water body is one that is not meeting applicable water quality  
20 standards and for which the State must, by law, develop and implement “total maximum daily  
21 loads” to achieve compliance with applicable standards. In the lower Salinas River drainage and  
22 adjacent Elkhorn Slough, the State of California has identified more than 130 impairments, the  
23 majority of which are caused by agricultural discharges.

24 11. This surface water contamination impairs designated beneficial and public uses.  
25 The California Regional Water Quality Control Board for the Central Coast (“Regional Board”)  
26 has determined that “large stretches of rivers in the entire region’s major watersheds have been  
27 severely impaired or completely destroyed by severe toxicity from pesticides” and that most of  
28 the surface water bodies in the region are no longer “suitable for safe recreational fishing or to

1 support aquatic life.” Concerns about health impacts from exposure to contaminated water  
2 reduce boating and fishing opportunities for the public and significantly impair recreational and  
3 aesthetic interests in these public resources.

4 12. Agricultural contamination of surface water also threatens the ecological health of  
5 the region. The Salinas River and Elkhorn Slough provide important habitat for fish and  
6 wildlife, and both water bodies support world-renowned national wildlife refuges. These waters,  
7 in turn, flow into the Monterey Bay National Marine Sanctuary, a critical feature of the unique  
8 California Current marine ecosystem. Data show that habitat conditions for sea otters, steelhead  
9 trout, benthic macroinvertebrates, and other native species occupying these waters are being  
10 degraded and adversely impacted by the discharge of pesticides, nutrients, sediments, pathogens,  
11 and other agricultural pollutants.

12 13. Agricultural pollution also adversely impacts groundwater throughout the lower  
13 Salinas River watershed. Within the northern Salinas Valley, the Regional Board has found that  
14 25 percent of 352 wells sampled – or 88 wells – contain nitrate concentrations above the  
15 drinking water standard for that contaminant. In portions of the Salinas Valley, up to  
16 approximately 50 percent of the wells surveyed contain nitrate concentrations above the drinking  
17 water standard. The average nitrate concentration in these wells is nearly double the drinking  
18 water standard, and the highest detected nitrate concentration is approximately nine times the  
19 drinking water standard. This contamination is caused primarily by the percolation of  
20 agricultural chemicals and pollutants through soil and subsurface waters.

21 14. Based on monitoring data, the Regional Board has concluded that “thousands of  
22 people [in the Central Coast region] are drinking water contaminated with unsafe levels of nitrate  
23 or are drinking replacement water to avoid drinking contaminated water” and that “[t]he cost to  
24 society for treating [this] polluted drinking water is estimated to be in the hundreds of millions of  
25 dollars.” The United States Environmental Protection Agency warns that “[i]nfants who drink  
26 water containing nitrates in excess of the [drinking water standard] could become seriously ill  
27 and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.”  
28

1           15.     Through its day-to-day management activities, MCWRA actively facilitates and  
2 contributes to the discharge of agricultural pollution to surface and subsurface water in the  
3 Salinas River watershed. MCWRA has erected and operates an extensive infrastructure to  
4 transport water into the Salinas Valley from the distant Nacimiento and San Antonio Reservoirs.  
5 MCWRA regularly recharges the groundwater aquifer in the lower Salinas River region with  
6 water transported from these reservoirs. Growers and landowners then pay MCWRA to  
7 withdraw and use this recharged groundwater for irrigating cropland. But for MCWRA’s active  
8 management and regular recharge of the subsurface aquifer, growers and landowners in the  
9 northern Salinas Valley would be unable to sustain irrigation of their lands at existing levels over  
10 the long term.

11           16.     Due to the poor drainage attributes of the soils in this area, many or most farm  
12 operators who irrigate their cropland affirmatively channel return flows from their fields into  
13 drainage canals operated by MCWRA. In particular, the so-called “Reclamation Ditch” operated  
14 by MCWRA collects contaminated agricultural wastewater from adjacent farmland and  
15 discharges it into Tembladero Slough, which in turn empties into the Salinas River, Elkhorn  
16 Slough, and ultimately the Pacific Ocean. Similarly, the so-called “Blanco Drain” operated by  
17 MCWRA collects contaminated irrigation return flow from adjacent low-lying farmland and  
18 actively pumps that collected water into the Salinas River. But for the operation of these  
19 wastewater conveyance facilities by MCWRA, contaminated agricultural return flows from  
20 much of the cropland in the lower Salinas River region would not reach or pollute the Salinas  
21 River, Tembladero Slough, or Elkhorn Slough.

22           17.     The pollutants contained in discharges from the Reclamation Ditch and the  
23 Blanco Drain exceed state water quality standards set forth in the Water Quality Control Plan for  
24 the Central Coast Region (“Basin Plan”) for the designated beneficial uses of the Salinas River,  
25 Tembladero Slough, and Elkhorn Slough and have contributed to impairment of these designated  
26 beneficial uses. Monterey Coastkeeper is informed and believes, and on that basis alleges, that  
27 in managing the Reclamation Ditch and the Blanco Drain, MCWRA has not undertaken action or  
28 instituted protective measures to minimize or mitigate the contamination in surface water.

1  
2 18. The application of irrigation water to Salinas Valley cropland treated with  
3 pesticides or fertilizer has resulted in the percolation of pollutants, including but not limited to  
4 nitrates, into underlying groundwater. The subsequent movement of these agricultural pollutants  
5 through the groundwater aquifer has contaminated drinking water resources at levels that exceed  
6 applicable legal standards and threaten public health. Monterey Coastkeeper is informed and  
7 believes, and on that basis alleges, that in managing withdrawals from and recharge of  
8 groundwater in the lower Salinas Valley, MCWRA has not undertaken action or instituted  
9 protective measures to minimize or mitigate nitrate or other contamination in subsurface water.

10 19. As a public agency, MCWRA has a legal obligation under state law to protect the  
11 public trust uses of navigable waters and their non-navigable tributaries. These public trust uses  
12 include, but are not limited to, protection of fisheries and other wildlife in the Salinas River,  
13 Tembladero Slough, and Elkhorn Slough, as well as preservation of the ecological, aesthetic, and  
14 recreational uses of these waters. MCWRA's public trust obligations extend to hydrologically  
15 connected groundwater, as well as non-navigable tributaries of these water bodies.

16 20. By allowing and contributing to the contamination of water resources in the  
17 Salinas Valley watershed to the detriment of their ecological, aesthetic, and recreational public  
18 trust values and uses, MCWRA is breaching its fiduciary obligations under the Public Trust  
19 Doctrine to the people of California and future generations.

20 21. Like all dischargers, MCWRA also has a legal duty to conform its actions and  
21 operations to the requirements of the Porter-Cologne Water Quality Control Act. Among other  
22 things, the Porter-Cologne Act mandates that a potential discharger submit a report of waste  
23 discharge to the Regional Board and comply with all state water quality standards set forth in the  
24 Basin Plan.

25 22. Monterey Coastkeeper is informed and believes, and on that basis alleges, that  
26 MCWRA has never submitted a report of waste discharge to the Regional Board for its  
27 discharges from the Reclamation Ditch and the Blanco Drain. Monterey Coastkeeper is further  
28 informed and believes, and on that basis alleges, that the Regional Board has never issued a

1 waste discharge requirement, a conditional waiver applicable to MCWRA, or any other  
2 authorization to MCWRA for discharges from these conveyance channels into state waters.  
3 MCWRA’s failure to submit a report of waste discharge and to obtain Regional Board  
4 authorization for its agricultural discharges constitute ongoing breaches of its mandatory duties  
5 under the Porter-Cologne Act.

6 23. Monterey Coastkeeper is informed and believes, and on that basis alleges, that the  
7 amounts and types of pesticides and fertilizers applied to cropland that drains into the  
8 Reclamation Ditch and the Blanco Drain have materially changed over the years since the  
9 Porter-Cologne Act was adopted in 1969, resulting in new or different discharges to state waters.

10 24. The conversion of functioning wetlands into farmland and the removal of  
11 vegetative buffer that helps filter contamination and reduce sedimentation also has materially  
12 changed over the last several years, resulting in new or different discharges to state waters.

13 **CLAIMS FOR RELIEF**

14 **First Cause of Action**  
15 **(Violation of Section 13260 of the Porter-Cologne Act)**

16 25. Monterey Coastkeeper realleges and incorporates by reference each and every  
17 allegation contained in paragraphs 1 through 24 above as though fully set forth herein.

18 26. Any person, including a water agency or district, discharging or proposing to  
19 discharge waste that could affect the quality of waters of the state must file a report of waste  
20 discharge with the Regional Board. Cal. Water Code § 13260.

21 27. MCWRA continues to discharge pesticides, nutrients, sediments, pathogens, and  
22 other pollutants into waters of the state, including the Salinas River and Tembladero Slough  
23 from the Blanco Drain and Reclamation Ditch, but has not filed a report of waste discharge with  
24 the Regional Board for these discharges.

25 28. MCWRA is not exempt from the requirement to file a report of waste discharge  
26 by the “Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated  
27 Lands” issued by the Regional Board because MCWRA is not an “owner and/or operator of  
28 irrigated cropland on or from which there are discharges of waste that could affect the quality of  
any surface water or groundwater.”



1 29. MCWRA's failure to file a report of water discharge constitutes an ongoing  
2 violation of its legal duty under the Porter-Cologne Water Quality Control Act for which  
3 Monterey Coastkeeper has no adequate remedy at law. This violation is actionable under  
4 California Civil Code section 1085.

5 **Second Cause of Action**  
6 **(Violation of Section 13264 of the Porter-Cologne Act)**

7 30. Monterey Coastkeeper realleges and incorporates by reference each and every  
8 allegation contained in paragraphs 1 through 24 above as though fully set forth herein.

9 31. No person, including a water agency or district, shall make any new discharge or  
10 a material change in an existing discharge until the Regional Board issues a waste discharge  
11 requirement for such new or materially changed discharge implementing the standards adopted  
12 in the Basin Plan. Cal. Water Code § 13264. The waste discharge requirement must take into  
13 consideration the beneficial uses to be protected, the water quality objectives reasonably required  
14 for that purpose, other waste discharges, and the need to prevent nuisance. Cal. Water Code §  
15 13263.

16 32. Since passage of the Porter-Cologne Water Quality Control Act in 1969, changes  
17 in crop rotation, pesticide and fertilizer use, vegetative buffers, and the operation of the Blanco  
18 Drain and Reclamation Ditch system have caused new or materially changed discharges by  
19 MCWRA into the Salinas River and Tembladero Slough, but MCWRA has not sought or  
20 received a waste discharge requirement from the Regional Board.

21 33. MCWRA is not exempt from the requirement to obtain a waste discharge  
22 requirement for new or materially changed existing discharges by the "Conditional Waiver of  
23 Waste Discharge Requirements for Discharges from Irrigated Lands" issued by the Regional  
24 Board because MCWRA is not an "owner and/or operator of irrigated cropland on or from which  
25 there are discharges of waste that could affect the quality of any surface water or groundwater."

26 34. MCWRA's ongoing discharge of agricultural pollutants into state waters without  
27 a waste discharge requirement constitutes a violation of its legal duty under the Porter-Cologne  
28 Water Quality Control Act for which Monterey Coastkeeper has no adequate remedy at law.  
This violation is actionable under Cal. Civ. Proc. Code section 1085.

1 **Third Cause of Action**  
2 **(Violation of Section 13247 of the Porter-Cologne Act)**

3 35. Monterey Coastkeeper realleges and incorporates by reference each and every  
4 allegation contained in paragraphs 1 through 24 above as though fully set forth herein.

5 36. Every state agency must comply with approved or adopted water quality control  
6 plans in carrying out activities that may affect water quality. Cal. Water Code § 13247.

7 37. The Basin Plan prepared and adopted by the Regional Board is an approved water  
8 quality control plan which applies to the northern Salinas Valley watershed.

9 38. MCWRA is a state agency created and authorized by special state legislation  
10 enacted by the California Legislature and is subject to the requirements of California Water Code  
11 section 13247.

12 39. MCWRA's discharges of pollutants into the Salinas River and Tembladero  
13 Slough violate water quality standards set forth in the duly adopted Basin Plan for the Central  
14 Coast region, in violation of California Water Code section 13247.

15 40. MCWRA's ongoing discharge of agricultural pollutants into state waters at levels  
16 that exceed water quality standards approved in the Basin Plan constitutes a violation of its legal  
17 duty under the Porter-Cologne Water Quality Control Act for which Monterey Coastkeeper has  
18 no adequate remedy at law. This violation is actionable under Cal. Civ. Proc. Code section  
19 1085.

20 **Fourth Cause of Action**  
21 **(Breach of Fiduciary Duty under California Public Trust Doctrine)**

22 41. Monterey Coastkeeper realleges and incorporates by reference each and every  
23 allegation contained in paragraphs 1 through 24 above as though fully set forth herein.

24 42. In California, the waters and streams of the State, and the fish, wildlife, and  
25 ecological values they support and sustain, belong to the public and are held in trust by the State  
26 for the benefit of the people of California and future generations.

27 43. The Salinas River, Tembladero Slough, and Elkhorn Slough are navigable waters  
28 of the State, and their water quality, fish and wildlife resources, and ecological, aesthetic and  
recreational value are subject to and protected by the Public Trust Doctrine.

1           44.     The Public Trust Doctrine creates an affirmative and ongoing fiduciary duty in all  
2 California public agencies, including MCWRA, to protect and preserve these public trust  
3 resources for benefit of the people of California and future generations.

4           45.     By channelizing and directing agricultural pollutants through the Blanco Drain  
5 and Reclamation Ditch and discharging those pollutants untreated into the Salinas River and  
6 Tembladero Slough at levels that exceed water quality standards and impair beneficial uses,  
7 MCWRA is violating its fiduciary duty to protect and preserve these public trust resources for  
8 the benefit of the people of California and future generations.

9           46.     Monterey Coastkeeper has no adequate remedy at law for MCWRA's ongoing  
10 injury to the public trust resources of the Salinas River, Tembladero Slough, and Elkhorn  
11 Slough. Accordingly, Monterey Coastkeeper seeks a judicial determination that MCWRA is  
12 violating its public trust obligations and an order directing MCWRA to comply with its public  
13 trust obligations to the people of California by ceasing such injurious discharges.

14                               **Fifth Cause of Action**  
15                               **(Abatement of Public Nuisance)**

16           47.     Monterey Coastkeeper realleges and incorporates by reference each and every  
17 allegation contained in paragraphs 1 through 24 above as though fully set forth herein.

18           48.     MCWRA's discharge of pesticides, nutrients, sediments, pathogens, and other  
19 pollutants into the Salinas River and Tembladero Slough, and into hydrologically connected  
20 tributaries and groundwater constitutes a public nuisance and a nuisance per se.

21           49.     The public nuisance caused by MCWRA's discharges affect many members of  
22 the community who use or rely upon the Salinas River, Tembladero Slough, Elkhorn Slough, or  
23 hydrologically connected tributaries or groundwater.

24           50.     The use and enjoyment of these state waters and public trust resources by  
25 Monterey Coastkeeper and its staff and members, as well as by the general public, is lessened  
26 and impaired by MCWRA's discharge of pesticides, nutrients, sediments, pathogens, and other  
27 pollutants into these waters.

28           51.     Monterey Coastkeeper and its staff and members suffer special injury from this  
public nuisance because they have a unique interest in safe drinking water and in the use and

1 enjoyment of the waters, fish, and wildlife of the Salinas River, Tembladero Slough, and Elkhorn  
2 Slough that is being impaired and lessened by agricultural pollution.

3 **RELIEF REQUESTED**

4 WHEREFORE, Petitioner-Plaintiff Monterey Coastkeeper prays for entry of judgment as  
5 follows:

6 1. For a declaratory judgment that Respondent-Defendant MCWRA has violated and  
7 continues to violate its mandatory duties under state law by:

8 a. Failing to file a report of water discharge for its ongoing discharge of  
9 pesticides, nutrients, sediment, pathogens, or other agricultural pollutants into the Salinas River  
10 and Tembladero Slough from the Blanco Drain and the Reclamation Ditch, in violation of  
11 California Water Code section 13260;

12 b. Causing a new or materially changed discharge of pesticides, nutrients,  
13 sediment, pathogens, or other agricultural pollutants into the Salinas River and Tembladero  
14 Slough from the Blanco Drain and the Reclamation Ditch without obtaining a waste discharge  
15 requirement for such new or changed discharges, in violation of California Water Code section  
16 13264;

17 c. Discharging pesticides, nutrients, sediment, pathogens, or other  
18 agricultural pollutants into the Salinas River and Tembladero Slough from the Blanco Drain and  
19 the Reclamation Ditch at levels that do not comply with the approved and adopted Basin Plan, in  
20 violation of California Water Code section 13247.

21 2. For a declaratory judgment that Respondent-Defendant MCWRA's ongoing  
22 discharge of pesticides, nutrients, sediment, pathogens, or other agricultural pollutants into the  
23 Salinas River and Tembladero Slough from the Blanco Drain and Reclamation Ditch and into  
24 hydrologically connected groundwater violates MCWRA's fiduciary trust obligations to  
25 Monterey Coastkeeper and the people of the State of California under the Public Trust Doctrine.

26 3. For a declaratory judgment that Respondent-Defendant MCWRA's ongoing  
27 discharge of pesticides, nutrients, sediment, pathogens, or other agricultural pollutants into the  
28

1 Salinas River and Tembladero Slough from the Blanco Drain and the Reclamation Ditch  
2 constitutes a public nuisance and/or a nuisance per se.

3 4. For a peremptory writ of mandate ordering Respondent-Defendant MCWRA to  
4 abate the public nuisance and cease all discharges from the Reclamation Ditch and Blanco Drain  
5 until those discharges are brought into full compliance with the requirements of law.

6 5. For an award to Petitioner-Plaintiff of its attorneys' fees and costs of suit  
7 (including reasonable attorney, witness, and consultant fees) as authorized by Cal. Civ. Proc.  
8 Code § 1021.5.

9 6. For any such other equitable or legal relief as the Court deems appropriate.

10 Date: October 21, 2010

ENVIRONMENTAL LAW CLINIC  
Mills Legal Clinic at Stanford Law School

11  
12  
13 By: 

Deborah A. Sivas

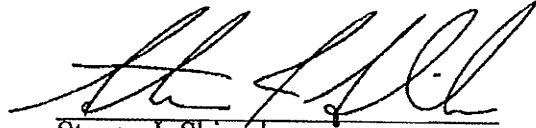
14  
15 Attorneys for Petitioner-Plaintiff MONTEREY  
COASTKEEPER

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**VERIFICATION**

I am a representative of Petitioner-Plaintiff Monterey Coastkeeper and am authorized to execute this verification on its behalf. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and am familiar with its contents. I am informed and believe and on that ground allege that the matters stated in this Petition and Complaint are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 21, 2010

  
Steven J. Shimek