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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

NATURAL RESOURCES
DEFENSE COUNCIL, et al.,

Plaintiffs,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY, et al.,

Defendants.

CASE NO. CV 04-8307-GHK (RCx)

PERMANENT INJUNCTION AND
JUDGMENT

This matter is before the Court on Plaintiffs' Motion to Enter Their Proposed Form of Injunction ("Motion"). After considering the papers and oral argument in support of and opposition to this Motion, we rule as follows.

For the reasons stated in our Order dated June 27, 2006, ("Partial Summary Judgment Order"), Defendants U.S. Environmental Protection Agency and Stephen L. Johnson¹ (collectively, "EPA") failed to perform a nondiscretionary duty to promulgate

¹This case was filed against Michael Leavitt as Administrator of the U.S. Environmental Protection Agency. As Stephen L. Johnson has since replaced Michael Leavitt as Administrator, the former is automatically substituted as a party. Fed. R. Civ. P. 25(d)(1).

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1 effluent limitation guidelines (ELGs) and new source performance standards (NSPSs) as
2 required by the Clean Water Act.

3 EPA, their officers, agents, servants, employees, and attorneys, and those persons
4 in active concert or participation with them who receive actual notice of this Order by
5 personal service or otherwise are hereby **ENJOINED** to:

6 1. Promulgate ELGs and NSPSs for the construction-and-development as soon as
7 practicable, but in no event later than December 1, 2009.

8 2. Meet the following Milestone Deadlines:

9 a. Data collection; identification of the best options; and development of all cost-
10 benefit models shall be completed by December 1, 2007, (*see* King Nov. 20, 2006 Decl.
11 ¶ 3);

12 b. Estimation of all costs and benefits; if necessary, analysis of regulatory
13 flexibility and convention of an Advocacy Review Panel; re-analysis of options;
14 preparation of supporting documents; preparation of a proposal package and record;
15 inter-agency and intra-agency review of the proposal package; and publication of the
16 proposed rule for solicitation of comments shall be completed by December 1, 2008,
17 (*see* King Nov. 20, 2006 Decl. ¶ 4).

18 c. Collection of comments; review of comments; assessment of actions needed to
19 respond to comments; complete re-analysis of options based on comments and other new
20 information; preparation of final package and record; inter-agency and intra-agency
21 review of the final package; and publication of the final ELGs and NSPSs shall be
22 completed by December 1, 2009, (*see* King Nov. 20, 2006 Decl. ¶ 5).

23 3. File status reports with this Court, to be served on all parties to this case, on April 2,
24 2007; August 1, 2007; December 3, 2007; April 1, 2008; August 1, 2008; December 1,
25 2008; April 1, 2009; August 3, 2009; and December 1, 2009. Each such status report
26 shall include a detailed description of all steps already taken toward promulgation of
27 final ELGs and NSPSs; confirmation that EPA has met the already-passed Milestone
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1 Deadlines set forth above; and a specific projection of the timing of all steps remaining
2 to be taken, if different from the Milestone Deadlines set forth above.

3 It is further **ORDERED** that EPA may apply at any time for modification of the
4 remaining Milestone Deadlines; provided that in no case shall an application be made
5 that jeopardizes final promulgation by December 1, 2009; further provided that no
6 extension of any Milestone Deadline shall be granted absent good cause; and further
7 provided that no application shall seek modification of a Milestone Deadline that has
8 already passed.

9 Plaintiffs, Intervenor-Plaintiffs, and Intervenor-Defendants may file a response to
10 EPA's status reports or modification applications within five days of the filing any such
11 report or application.

12 Pursuant to Federal Rule of Civil Procedure 54(b), final judgment is entered as to
13 Claim One of the Complaint. We expressly determine that there is no just reason for
14 delay, and expressly direct the entry of this judgment.

15 **IT IS SO ORDERED.**

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17 DATED: December 1, 2006

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21 _____
22 GEORGE H. KING
23 United States District Judge
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