

**FILED**

**MAR 29 2011**

**KIM TURNER**  
Court Executive Officer  
**MARIN COUNTY SUPERIOR COURT**  
*By: M. Murphy, Deputy*

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF MARIN**

**NO WETLANDS LANDFILL  
EXPANSION, an unincorporated  
association, SUSTAINABILITY, PARKS,  
RECYCLING AND WILDLIFE LEGAL  
DEFENSE FUND, a California non-profit  
corporation, and NORTHERN  
CALIFORNIA RECYCLING  
ASSOCIATION, a California non-profit  
corporation**

**Petitioners and Plaintiffs,**

**vs.**

**COUNTY OF MARIN, BOARD OF  
SUPERVISORS, FOR THE COUNTY OF  
MARIN, MARIN COUNTY  
DEPARTMENT OF ENVIRONMENTAL  
HEALTH SERVICES, MARIN COUNTY  
COMMUNITY DEVELOPMENT  
AGENCY, and PHIL SMITH, in his official  
capacity as Deputy Director, Marin County  
Department of Environmental Health  
Services/Local Enforcement Agency**

**Respondent and Defendants.**

**Real Party in Interest.**

**) Case No.: CV090198**

**) JUDGMENT GRANTING PEREMPTORY  
) WRIT OF MANDATE**

**) HEARING DATE: JANUARY 12, 2011**

**) ORDER: FEBRUARY 14, 2011**

**) DEPT. E**

**) JUDGE: HON. JAMES R. RITCHIE**

At the hearing on September 27, 2010, in Department D of this Court, with Mark Pollock and Brent Newell appearing for Petitioners, Nancy Grisham for Respondents, and Osha Meserve for Real

1 Party in Interest, the Court heard argument on Petitioners' request for Issuance of a Writ of Mandate.  
2 On October 12, 2010, after taking the matter under submission at the hearing, the Court issued its  
3 "Order Granting Petition for Writ of Mandate on Limited Issue of Appeal to Supervisors." The Court  
4 directed Petitioners to prepare and submit a Peremptory Writ. In November, Petitioners submitted a  
5 proposed writ and proposed judgment to which Respondents and Real Party could not agree.

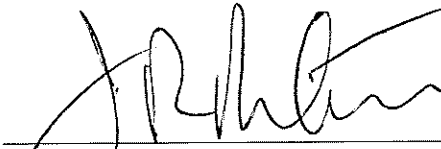
6 On November 16, 2010, Respondents and Real Party filed a notice of intention to move for new  
7 trial. After considering the briefing for and against the motion, the Court issued its tentative ruling  
8 denying the motion and heard argument from counsel on January 12, 2011. After taking the points  
9 raised under submission, the Court issued a decision denying Respondents' motion on February 14,  
10 2011. In that order, the Court took note of the parties' previous inability to agree upon the form of a  
11 judgment and peremptory writ, and requested that counsel take note of the guidance provided in the  
12 Court's order in providing a proposed judgment and writ. The parties have not agreed and the Court  
13 has now selected and signed this judgment containing language proposed by Respondents. It is the  
14 Court's belief that the judgment be narrowly tailored to the remedy ordered by this Court and the  
15 necessary language to ensure that the status quo be maintained at the Redwood Landfill, pending an  
16 appeal to the Marin County Board of Supervisors. Toward that end,

17 IT IS ORDERED that:

- 18 1. Judgment be entered in favor of Petitions in this proceeding.
- 19 2. A peremptory writ of mandate directed to Respondents issue under seal of this Court,  
20 ordering:
  - 21 a. Respondents to vacate and set aside Resolution No. 2008-01 certifying the Final  
22 Environmental Impact Report for the Redwood Landfill Revised Solid Waste Facility  
23 Permit ("Project").
  - 24 b. Respondents to vacate and set aside the "Findings Pursuant to the California  
25 Environmental Quality Act of the Marin County Environment Health Services  
Division/Local Enforcement Agency," which made findings, including a Statement of  
Overriding Considerations, in connection with the approval of the Project.
  - c. Respondents to vacate and set aside Resolution No. 2008-02 approving the Project.
  - d. Respondents to vacate and set aside the Solid Waste Facility Permit issued to  
Redwood Landfill, Inc. on December 18, 2008;

- 1 e. Respondents to allow an administrative appeal of an EIR certification by the Marin  
2 County Environmental Health Services Division/Local Enforcement Agency ("LEA")  
3 to the Board of Supervisors; and
- 4 f. Respondents and Real Party in Interest to suspend all activities undertaken in  
5 furtherance of the Project that could result in an adverse change or alteration of the  
6 physical environment unless and until such time as Respondent Board of Supervisors  
7 has complied with Public Resources Code section 21151, subdivision (c), or other  
8 order of the Court.
- 9 3. Based on the Redwood Landfill's current operating conditions, Real Party in Interest may  
10 operate the Redwood Landfill under the terms of the 1995 Solid Waste Facility Permit and  
11 subject to any Stipulated Notice and Order that the LEA may issue.
- 12 4. Pursuant to the Public Resources Code section 21168.9, subdivision (c), this Court does  
13 not direct Respondents to exercise their discretion in any particular way.
- 14 5. Pursuant to Public Resources Code section 21168.9, subdivision (b), this Court will retain  
15 jurisdiction over Respondents' proceedings by way of return to this peremptory writ of  
16 mandate until the Court has determined that Respondents have complied with the  
17 California Environmental Quality Act.
- 18 6. The Court awards Petitioners, as the prevailing party, costs of suit. The Court reserves  
19 jurisdiction to determine the amount of such costs pursuant to rule 3.1700 of the  
20 California Rules of Court.
- 21 7. The court reserves jurisdiction to determine Petitioners' entitlement to attorneys' fees and  
22 the amount of such fees on timely motion by Petitioners pursuant to CCP §1021.5 and  
23 Rule 3.1702 of the California Rules of Court.

24 Dated: March 29, 2011

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**JAMES R. RITCHIE**  
**Judge of the Superior Court**

STATE OF CALIFORNIA )  
COUNTY OF MARIN )

IN RE: **NO WETLANDS LANDFILL EXPANSION, ET AL v. COUNTY OF  
MARIN, ET AL**

ACTION NO.: **CV090198**

(PROOF OF SERVICE BY MAIL – 1013A, 2015.5 C.C.P.)

I AM AN EMPLOYEE OF THE SUPERIOR COURT OF MARIN; I AM OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE WITHIN ABOVE-ENTITLED ACTION; MY BUSINESS ADDRESS IS CIVIC CENTER, HALL OF JUSTICE, SAN RAFAEL, CA 94903.

ON **March 30, 2011** I SERVED THE WITHIN

***JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE***

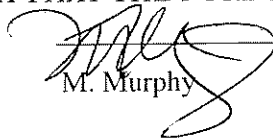
IN SAID ACTION TO ALL INTERESTED PARTIES, BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON FULLY PREPAID, IN THE UNITED STATES POST OFFICE MAIL BOX AT SAN RAFAEL, CA ADDRESSED AS FOLLOWS:

<b><i>BRETT J. NEWELL, ESQ.</i></b> <b><i>PO BOX 750525</i></b> <b><i>PETALUMA, CA 94975-0525</i></b>	<b><i>MARK S. POLLOCK, ESQ.</i></b> <b><i>952 JEFFERSON STREET</i></b> <b><i>NAPA, CA 94559</i></b>
<b><i>NANCY S. GRISHAM, ESQ.</i></b> <b><i>MARIN COUNTY COUNSEL</i></b> <b><i>3501 CIVIC CENTER DRIVE, #303</i></b> <b><i>SAN RAFAEL, CA 94903</i></b>	<b><i>OSHA MESERVE, ESQ.</i></b> <b><i>1822 21<sup>ST</sup> STREET</i></b> <b><i>SACRAMENTO, CA 95811</i></b>

*I CERTIFY (OR DECLARE), UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.*

DATE:

*3/30/11*

  
M. Murphy