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FILED
 ALAMEDA COUNTY

DEC 30 2009

CLERK OF THE SUPERIOR COURT

By Vicki Daybell *VP*

5 Attorneys for Petitioners/Plaintiffs
 6 CENTER FOR ENVIRONMENTAL HEALTH;
 7 CONSUMER FEDERATION OF CALIFORNIA;
 8 PLANNING AND CONSERVATION LEAGUE;
 CALIFORNIA STATE PIPE TRADES COUNCIL;
 CALIFORNIA PROFESSIONAL FIREFIGHTERS; and
 SIERRA CLUB CALIFORNIA

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

12 CENTER FOR ENVIRONMENTAL HEALTH;
 13 CONSUMER FEDERATION OF
 CALIFORNIA; PLANNING AND
 14 CONSERVATION LEAGUE; CALIFORNIA
 STATE PIPE TRADES COUNCIL;
 15 CALIFORNIA PROFESSIONAL
 FIREFIGHTERS; SIERRA CLUB
 16 CALIFORNIA and DOES 2 through 10,
 inclusive,

Case No.: RG09437040

~~Proposed~~
**JUDGMENT AND ORDER
 PURSUANT TO PUBLIC
 RESOURCES CODE SECTION
 21168.9**

Petitioners and Plaintiffs,

ASSIGNED FOR ALL PURPOSES:
 Hon. Frank Roesch
 Department: 31

vs.

19 CALIFORNIA BUILDING STANDARDS
 COMMISSION, a public agency;
 20 CALIFORNIA DEPARTMENT OF HOUSING
 AND COMMUNITY DEVELOPMENT, a
 21 public agency; CALIFORNIA DIVISION OF
 THE STATE ARCHITECT, a public agency;
 22 CALIFORNIA OFFICE OF STATEWIDE
 HEALTH PLANNING AND
 23 DEVELOPMENT, a public agency;
 CALIFORNIA DEPARTMENT OF PUBLIC
 24 HEALTH, a public agency; CALIFORNIA
 DEPARTMENT OF FOOD AND
 25 AGRICULTURE, a public agency; and DOES
 26 11 through 20, inclusive,

Writ Hearing:
 Date: August 28, 2009
 Time: 9:00 a.m.
 Dept.: 31

Filing Date of Action:
 February 20, 2009

Respondents and Defendants.

(Caption continued on next page)

1 PLASTIC PIPE and FITTINGS
2 ASSOCIATION; and DOES 21 through 30,
3 inclusive,

4 Real Parties In Interest.

5
6 The matter of the hearing on the Amended Verified Petition for Writ of Mandate (Case No.
7 RG09437040) came on regularly for hearing on August 28, 2009 in Department 31 of the Alameda
8 County Superior Court, the Honorable Frank Roesch presiding. Thomas A. Enslow of Adams,
9 Broadwell, Joseph & Cardozo appeared for petitioners Center for Environmental Health, Consumer
10 Federation of California, Planning and Conservation League, California State Pipe Trades Council,
11 California Professional Firefighters and Sierra Club California (“Petitioners”). Whitman F.
12 Manley and Sabrina Teller of Remy, Thomas, Moose and Manley appeared for respondents
13 California Building Standards Commission, California Department of Housing and Community
14 Development, Division of the State Architect, California Office of Statewide Health Planning and
15 Development, California Department of Public Health and California Department of Food and
16 Agriculture (“Respondents”). Kelley M. Taber of Somach, Simmons and Dunn appeared on behalf
17 of Real Party in Interest, Plastic Pipe and Fittings Association.

18 The Court having reviewed the record of Respondents’ proceedings in this matter, the briefs
19 submitted by counsel, and the arguments of counsel, and the matter having been submitted for
20 decision, the Court entered a statement of decision, in an order dated December 4, 2009, that
21 judgment and a peremptory writ of mandate issue in this proceeding. For the reasons set forth in
22 the Court’s December 4, 2009 statement of decision,

23 **IT IS ORDERED that:**

24 1. For failure to comply with the requirements of the California Environmental Quality Act
25 (“CEQA”), let a writ of mandate issue requiring respondents to vacate and set aside their approval
26 and adoption of California Building Standards Code regulations authorizing the installation of PEX
27 plastic pipe, including, without limitation, certification of the environmental impact report (“EIR”)
28 (State Clearinghouse Number 2007102143), and any actions taken founded on those regulations..

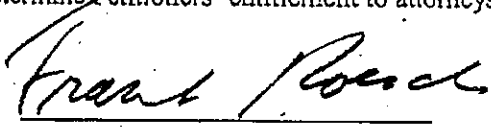
1 2. Under Public Resources Code section 21168.9, subsection (b), this Court reserves
2 jurisdiction over Respondents' proceedings by way of a return to this peremptory writ of mandate
3 until the Court has determined that Respondents have complied with the provisions of CEQA and
4 the CEQA Guidelines.

5 3. Respondents are ordered to file a return to this writ of mandate within 60 days of receipt of
6 this Court's writ describing the action they have taken to comply with the writ pursuant to Public
7 Resources Code section 21168.9, subsection (b).

8 4. Petitioners are awarded their costs of suit.

9 5. This Court retains jurisdiction to determine Petitioners' entitlement to attorneys' fees.


10
11 Date: 12/30/09



Honorable Frank Roesch
Judge of the Superior Court

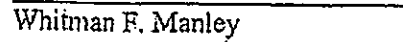
12
13
14
15 SUBMITTED BY:

16
17 Date: 12-23-09

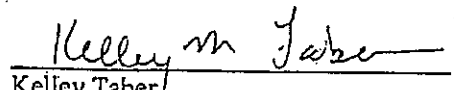

Thomas A. Enslow
Adams, Broadwell, Joseph & Cardozo
Attorneys for Petitioners

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19
20 APPROVED AS TO FORM:

21
22 Date: _____


Whitman F. Manley
Remy, Thomas, Moose & Manley
Attorneys for Respondents

23
24
25
26 Date: 12-24-09


Kelley Taber
Somach, Simmons & Dunn
Attorneys for Real Party in Interest

1 Under Public Resources Code section 21168.9, subdivision (c), this Court does not direct
2 Respondents to exercise their lawful discretion in any particular way.

3
4 Date: _____
5 Clerk of the Superior Court

6
7 **SUBMITTED BY:**

8
9 Date: 12-23-09
10 Thomas A. Enslow
11 Thomas A. Enslow
12 Adams, Broadwell, Joseph & Cardozo
13 Attorneys for Petitioners

14 **APPROVED AS TO FORM:**

15 Date: 12/23/09
16 Whitman F. Manley
17 Whitman F. Manley
18 Remy, Thomas, Moose & Manley
19 Attorneys for Respondents

20 Date: _____
21 _____
22 Kelley Taber
23 Somach, Simmons & Dunn
24 Attorneys for Real Parties in Interest

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