

CALIFORNIA COURT OF APPEAL, FIFTH APPELLATE DISTRICT

Camarillo Sanitary Dist. v. State Water Resources Control Bd.

Camarillo Sanitary Dist. · No. F087362 · Decided August 5, 2025

SUMMARY

The California Court of Appeal, Fifth Appellate District, reviewed challenges to California’s Toxicity Provisions governing whole effluent toxicity testing under the Clean Water Act and the National Pollutant Discharge Elimination System. The court held that the State Water Resources Control Board’s Test of Significant Toxicity could not be used in NPDES proceedings to measure whole effluent toxicity, but otherwise upheld the adoption of the Toxicity Provisions. The judgment was reversed in part, affirmed in part, and remanded for further proceedings.

CASE DETAILS

COURT	California Court of Appeal, Fifth Appellate District
JURISDICTION	California Court of Appeal, Fifth Appellate District
DECIDED	August 5, 2025
DOCKET	F087362
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a judgment of the Fresno County Superior Court denying appellants' petition for writ of mandate and requests for declaratory and injunctive relief challenging the State Water Resources Control Board's Toxicity Provisions.
STANDARD OF REVIEW	The appellate court independently reviews questions of law, including statutory and regulatory interpretation. In ordinary mandamus review of quasi-legislative agency action, the court applies a highly deferential standard, asking whether the agency acted arbitrarily, capriciously, without evidentiary support, or contrary to law. CEQA procedural questions are reviewed independently, while underlying factual determinations are reviewed for substantial evidence; prejudicial abuse of discretion is the governing CEQA standard.
PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal decision.
PARTIES	Camarillo Sanitary District, Central Valley Clean Water Association, Clean Water SoCal v. State Water Resources Control Board

TOPICS

clean water act environmental law administrative law judicial review of agency action
appellate procedure

PRACTICE AREAS

environmental law administrative law appellate procedure water quality regulation

QUESTIONS PRESENTED

1. Whether the Test of Significant Toxicity is an approved testing or statistical method under the Clean Water Act and 40 C.F.R. part 136 for determining whole effluent toxicity in NPDES proceedings.
2. Whether the Toxicity Provisions were authorized as a statewide water-quality policy under California Water Code sections 13140 and 13142.
3. Whether the State Board complied with the applicable California Administrative Procedure Act requirements when adopting the Toxicity Provisions.
4. Whether the State Board properly used a substitute environmental document under CEQA's certified regulatory-program provisions.
5. Whether the State Board's environmental analysis adequately addressed potentially significant impacts and reasonably foreseeable methods of compliance.

HOLDINGS

1. The Test of Significant Toxicity is not an approved method under the Clean Water Act's federal whole-effluent-toxicity testing scheme and cannot be used to determine compliance with NPDES permit requirements.
2. The State Board properly adopted the Toxicity Provisions as a statewide water-quality policy under Water Code sections 13140 and 13142, even though the provisions cannot replace federally approved methods in NPDES proceedings.
3. The State Board complied with the applicable Administrative Procedure Act requirements concerning necessity, authority, reference, consistency, nonduplication, and clarity.
4. The State Board properly used a substitute environmental document under the certified Water Quality Control (Basin)/208 Planning Program when adopting the statewide Toxicity Provisions.
5. The State Board's environmental analysis complied with CEQA and the applicable substitute-environmental-document requirements; substantial evidence supported its treatment of specific toxicity-control projects as speculative and its identification of monitoring and testing as the reasonably foreseeable method of compliance.

KEY QUOTATIONS

“Ultimately, the Test of Significant Toxicity is a statistical model that does not reach either of the approved statistical endpoints which define toxicity in the regulations—either IC25 (a 25 percent inhibition of the

measured effect within a defined confidence level) or NOEC (no observed effect at the concentration of the toxicant). It is therefore not an approved method.” (25-26)

“The Test of Significant Toxicity as incorporated into the Toxicity Provisions is inconsistent with the Clean Water Act’s requirements.” (31)

“The Toxicity Provisions consist of principles and guidelines disclosing and implementing a methodology for monitoring and analyzing the risk that water is toxic due to a combination of pollutants not otherwise adequately regulated by existing effluent limitations.” (36)

FACTUAL BACKGROUND

The State Water Resources Control Board adopted the Toxicity Provisions to regulate whole effluent toxicity in California waters. The provisions required use of the Environmental Protection Agency’s Test of Significant Toxicity for analyzing certain acute and chronic toxicity tests, including tests associated with NPDES permits. Appellants, entities regulated under or associated with NPDES wastewater-discharge permitting, argued that the Test of Significant Toxicity was not an approved federal testing method and that the Toxicity Provisions violated federal water law, California water law, the California Administrative Procedure Act, and CEQA.

PROCEDURAL HISTORY

Appellants challenged the Toxicity Provisions in a first amended verified petition for writ of mandate and complaint for declaratory and injunctive relief. The Fresno County Superior Court denied the writ petition and entered judgment for the State Board. Appellants timely appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment is reversed in part and affirmed in part. The matter is remanded for further proceedings consistent with the opinion, including setting aside the use of the Test of Significant Toxicity to determine compliance with NPDES permits while preserving the Toxicity Provisions as an independently valid state water-quality policy.

CASES CITED

- Carrancho v. California Air Resources Board, 111 Cal. App. 4th 1255 (2003)
- California Assn. of Medical Products Suppliers v. Maxwell-Jolly, 199 Cal. App. 4th 286 (2011)
- City of Burbank v. State Water Resources Control Board, 35 Cal. 4th 613 (2005)
- Department of Finance v. Commission on State Mandates, 1 Cal. 5th 749 (2016)
- Bell v. Cheswick Generating Station, 734 F.3d 188 (3d Cir. 2013)
- Communities for a Better Environment v. State Water Resources Control Board, 109 Cal. App. 4th 1089 (2003)

- Southern California Alliance of Publicly Owned Treatment Works v. U.S. Environmental Protection Agency, 8 F.4th 831 (9th Cir. 2021)
- Edison Electric Institute v. Environmental Protection Agency, 391 F.3d 1267 (D.C. Cir. 2004)
- County of Los Angeles v. State Water Resources Control Board, 143 Cal. App. 4th 985 (2006)
- American Coatings Assn. v. South Coast Air Quality Management District, 54 Cal. 4th 446 (2012)
- In re Gadlin, 10 Cal. 5th 915 (2020)
- Western States Petroleum Assn. v. Board of Equalization, 57 Cal. 4th 401 (2013)
- Kisor v. Wilkie, 588 U.S. 558 (2019)
- Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024)
- California Assn. of Sanitation Agencies v. State Water Resources Control Board, 208 Cal. App. 4th 1438 (2012)
- Laurel Heights Improvement Assn. v. Regents of University of California, 47 Cal. 3d 376 (1988)
- City of Arcadia v. State Water Resources Control Board, 135 Cal. App. 4th 1392 (2006)
- Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal. 4th 412 (2007)
- Ebbetts Pass Forest Watch v. California Department of Forestry & Fire Protection, 43 Cal. 4th 936 (2008)
- Santa Rita Union School District v. City of Salinas, 94 Cal. App. 5th 298 (2023)
- California Sportfishing Protection Alliance v. State Water Resources Control Board, 160 Cal. App. 4th 1625 (2008)
- California Forestry Assn. v. California Fish & Game Commission, 156 Cal. App. 4th 1535 (2007)
- Associated General Contractors of California, Inc. v. Department of Industrial Relations, 108 Cal. App. 5th 243 (2025)
- Camarillo Sanitary Dist. v. California Regional Water Quality Control Bd., Los Angeles Region (Dec. 19, 2024, B333420)