

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Ecological Rights Foundation v. City of Eureka

Ecological Rights Foundation · No. 22-cv-01459-JST · Decided March 5, 2025

SUMMARY

The United States District Court for the Northern District of California grants the City of Eureka’s motion to modify a consent decree governing its wastewater treatment plant. The court holds that the 2023 NPDES permit issued by the California Regional Water Quality Control Board was final for purposes of the consent decree, despite a pending state-court challenge. The parties are ordered to meet and confer regarding whether the proposed modifications reflect the permit and to file a joint amended decree or joint letter brief within 28 days.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jon S. Tigar
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 5, 2025
DOCKET	22-cv-01459-JST
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a Clean Water Act action against the City of Eureka. After the parties entered into a consent decree, the City moved under Federal Rule of Civil Procedure 60(b) and the decree's own terms to modify the decree to conform to a subsequently issued NPDES permit.
STANDARD OF REVIEW	A party seeking modification of a consent decree under Federal Rule of Civil Procedure 60(b) bears the burden of showing that a significant change in circumstances warrants revision. The court construes the consent decree using contract principles and may also rely on the decree's own modification provisions and its inherent authority.
PRECEDENTIAL VALUE	District court order; precedential status is not identified in the source metadata.

TOPICS

- clean water act
- administrative law
- judicial review of agency action
- remedies
- civil procedure

PRACTICE AREAS

environmental law

administrative law

civil procedure

remedies

municipal law

QUESTIONS PRESENTED

1. Whether the 2023 NPDES permit was "final pursuant to applicable law" under paragraph 39 of the consent decree despite EcoRights's pending state-court challenge.
2. Whether the consent decree required the Court to modify its terms to reflect the requirements of the 2023 NPDES permit.
3. Whether the parties should be ordered to negotiate compromise modifications rather than modifications that reflect the terms of the 2023 NPDES permit.

HOLDINGS

1. The 2023 NPDES permit was final pursuant to applicable law for purposes of paragraph 39 of the consent decree, notwithstanding EcoRights's pending state-court challenge.
2. The consent decree had to be modified to reflect the requirements of the final 2023 NPDES permit.
3. The Court would not order negotiations aimed at compromise dates or terms different from those imposed by the 2023 NPDES permit; the parties were required to meet and confer only about whether the proposed modifications reflected the permit's terms.

KEY QUOTATIONS

"Indeed, without a final administrative decision, EcoRights would not have been able to file its Humboldt Waterkeeper action, because the code sections that authorize judicial review of administrative actions require first that the administrative action be "final."" (at 5)

"If . . . the Regional Board . . . issues a new or reissued NPDES Permit to the City for the Treatment Plant that becomes final pursuant to applicable law and alters the CWA requirements applicable to the City that are reflected in the requirements of this Consent Decree, this Consent Decree will be modified to reflect those CWA requirements" (at 6)

FACTUAL BACKGROUND

The City operated the Elk River Wastewater Treatment Plant under a Clean Water Act NPDES permit. The Regional Board issued a new permit in October 2023 after an administrative notice-and-comment process, and EcoRights's appeal was constructively denied after 90 days. Although EcoRights later challenged the permit in state court, it had exhausted the available administrative remedies, and the consent decree required modification when a new or reissued permit became final and altered the requirements reflected in the decree.

PROCEDURAL HISTORY

Ecological Rights Foundation filed the underlying action in March 2022 alleging that the City's wastewater treatment plant violated the Clean Water Act. The parties mediated and agreed in principle to resolve the action; the Court entered their proposed consent decree on January 27, 2023. After the Regional Board issued a new

NPDES permit in October 2023 and the State Board constructively denied EcoRights's administrative appeal, EcoRights filed a state-court action challenging the permit. The City then moved to modify the federal consent decree, and the Court granted the motion.

DISPOSITION

other

REMAND INSTRUCTIONS

Within 28 days of entry of the order, the parties must file either a joint proposed amended consent decree or a joint letter brief of no more than 10 pages detailing disputed modifications and each party's position. The parties must meet and confer only regarding whether the proposed modifications reflect the terms of the 2023 NPDES permit.

CASES CITED

- *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 383 (1992)
- *Keith v. Volpe*, 784 F.2d 1457, 1461 (9th Cir. 1986)
- *United States v. Swift & Co.*, 286 U.S. 106, 114 (1932)
- *Earth Island Inst., Inc. v. So. Cal. Edison*, 166 F. Supp. 2d 1304, 1309 (S.D. Cal. 2001)
- *Thompson v. Enomoto*, 915 F.2d 1383, 1388 (9th Cir. 1990)
- *Gates v. Shinn*, 98 F.3d 463, 468 (9th Cir. 1996)
- *United States v. Asarco, Inc.*, 430 F.3d 972, 979-80 (9th Cir. 2005)