

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SAN FRANCISCO**

MINUTES

Sep 05, 2014

Department: 504

IN RE:  
COMMUNITIES FOR A BETTER  
ENVIRONMENT et al VS. BAY AREA AIR  
QUALITY MANAGEMENT DISTRICT

Case Number: CPF-14-513557

**Present:**

**Judge:** PETER J. BUSCH  
**Reporter:** Cynthia J. Poliseri, CSR #11448  
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**Clerk:** E. LARNAUTI

**Appearing:**

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Network, Sierra Club, Natural Resources  
Defense Counsel*

*For Respondent Bay Area Air Quality  
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*For Real Parties in Interest Kinder Morgan  
Materials Services, LLC,*

*For Intervenor Tesoro Refining & Marketing  
Company LLC*

The above-entitled cause comes on calendar for the following motions:

- Petitioners Communities for a Better Environment, Asian Pacific Environmental Network, Sierra Club, Natural Resources Defense Council's Motion for Preliminary Injunction
- Petitioners' Motion for Judgment
- Respondent Bay Area Air Quality Management District's Motion for Judgment (with Joinders by Real Party in Interest Kinder Morgan Materials Services, LLC, and Intervenor Tesoro Refining & Marketing Company LLC)
- Real Party in Interest Kinder Morgan Materials Services, LLC's Demurrer to Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (with Joinder by Intervenor Tesoro Refining & Marketing Company LLC)
- Intervenor Tesoro Refining & Marketing Company LLC's Demurrer to Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (Joinder by Real Party in Interest Kinder Morgan Materials Services, LLC)

1:35 pm Court and counsel are present. The Court gives counsel its tentative thoughts on the issues. Counsel present their arguments on all motions.

2:59 pm Arguments having concluded, an afternoon recess is declared. Court will resume in 15 minutes.

3:17 pm All present. Arguments having been submitted, the Court rules as follows: As to the issue of venue, the Court states the challenge to venue is waived as no motion to transfer has been made by any party.

On the issue of statute of limitations, the Court rules the petitioners have not brought the petition within the statutory period.

The Court sustains the Kinder Morgan and Tesoro demurrers without leave to amend, and grants the Respondent's Motion for Judgment.

Petitioners' Motion for Judgment is denied, which renders the Petitioners' Motion for Preliminary Injunction moot.

Respondent is directed to submit a proposed form of order.

Court stands adjourned.

\*After the hearing, the Administrative Record lodged with the Court is returned to Petitioners.\*