(ENDORSED)
FILED
JUN 12 2019
Clerk of the Court
Superior Court of CA County of Santa Clara
BY Jessica Crabtree DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

WILLOW GLEN TRESTLE CONSERVANCY, an unincorporated association; and FRIENDS OF THE WILLOW GLEN TRESTLE, an unincorporated association, Petitioners, vs. CITY OF SAN JOSE; CITY OF SAN JOSE DEPARTMENT OF PUBLIC WORKS; CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE; and DOES 1 to 10, Respondents.	Case No. 18CV335801 **ORDER RE: RENEWED MOTION FOR PRELIMINARY INJUNCTION**

The above-entitled matter came on for hearing on Monday, June 10, 2019, at 2:00 p.m. in Department 5, the Honorable Thomas E. Kuhnle presiding. Having reviewed and considered the written submissions filed by the parties, including the supplemental briefs requested by the Court, and having listened carefully to arguments of counsel, the Court rules as follows:

I. INTRODUCTION

Willow Glen Trestle Conservancy and Friends of the Willow Glen Trestle (together, "Petitioners") filed a Petition for Writ of Mandamus on October 4, 2018. Petitioners are

represented by Susan Brandt-Hawley, Esq. Respondents are the City of San Jose (the "City") and the California Department of Fish and Wildlife ("CDFW"). The City is represented by Margo Laskowska, Esq. and Elisa T. Tolentino, Esq. CDFW is represented by Sara D. Von Loh, Esq. and Connie P. Sung, Esq.

II. BACKGROUND

At issue is the City's Three Creeks Trail Pedestrian Bridge Project (the "Three Creeks Project"). In 2013, the City proposed to demolish the Willow Glen Trestle ("Trestle") and replace it with a steel truss bridge. In January 2014, the City council adopted a mitigated negative declaration ("MND"), which concluded the Trestle was not a historic resource and that the Three Creeks Project would have no significant impact on the environment.

In February 2014, Friends of the Willow Glen Trestle ("Friends") filed a writ challenging the City's approval of the Three Creeks Project and adoption of the MND. It argued there was substantial evidence to support a fair argument that the Trestle was a historic resource and therefore the California Environmental Quality Act ("CEQA") required preparation of an environmental impact report ("EIR"). In July 2014, the trial court issued a ruling supporting the position taken by Friends. Judgment was entered in August 2014 and the City appealed.

The Court of Appeal reversed the trial court's judgment. (*Friends of the Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457.) It concluded that "the deferential substantial evidence standard of judicial review is the correct standard to apply to the City's finding that the Trestle is not a historical resource." (*Id.* at p. 473.) The Court of Appeal remanded the case and directed the trial court to vacate its judgment and determine whether the City's adoption of the MND was supported by substantial evidence that the Trestle is not a historical resource. In its Order on Remand on Petition for Writ of Mandamus, which was filed on October 5, 2018, the trial court concluded that the City's finding that the Trestle was not a historic resource was supported by substantial evidence. Judgment was entered on November 21, 2017. It was not appealed.

Petitioners commenced this new action on October 4, 2018. Petitioners also filed an application for a temporary restraining order and preliminary injunction. Petitioners stated that

demolition of the Trestle was imminent. They argued there was new information that must be considered before the Three Creeks Project could proceed. The new information identified by Petitioners was the May 2017 listing of the Trestle in the California Register of Historical Resources. Petitioners argued the City must prepare an EIR in order to consider this new information, and that its obligation was triggered by its discretionary approval of a streambed alteration agreement ("SAA") on October 4, 2018. To maintain the status quo, the Court issued a temporary restraining order on October 4, 2018 and ordered a preliminary injunction hearing be set on October 10, 2018. On October 11, 2018, the Court issued its Order Denying Preliminary Injunction (the "October Order").[1]

III. APPLICABLE LAW

Before the Court is Petitioners' Renewed Motion for Preliminary Injunction ("Renewed Motion"), which was filed on June 3, 2019. The purpose of a preliminary injunction is to preserve the status quo pending a trial on the merits. (*Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512, 528.) "To obtain a preliminary injunction, a plaintiff ordinarily is required to present evidence of the irreparable injury or interim harm that it will suffer if an injunction is not issued pending an adjudication on the merits." (*White v. Davis* (2003) 30 Cal.4th 528, 554; see also Civ. Proc. Code § 526, subd. (a)(2).) Because of the requirement to show irreparable harm, "Normally an injunction will not issue where only money is involved." (Weil & Brown, *Cal. Practice Guide: Civil Procedure Before Trial* (The Rutter Group 2017) ¶ 9:510, at p. 9(II)-6; see also Civ. Proc. Code §526, subd. (a)(4) (an injunction may be granted "[w]hen pecuniary compensation would not afford adequate relief").)

If a moving party can show adequate harm, "a court must weigh two 'interrelated' factors: (1) the likelihood that the moving party will ultimately prevail on the merits and (2) the relative interim harm to the parties from issuance or nonissuance of the injunction." (*Butt v. State of Cal.* (1992) 4 Cal.4th 668, 677-678.) "The trial court's determination must be guided by a 'mix' of the potential-merit and interim-harm factors; the greater the plaintiff's showing on

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[1] The City filed a request for judicial notice with its opposition papers of documents in court files. The City relies on Evidence Code section 452, subdivision (d). The request is granted. As set forth in this Order, the Court too has cited documents filed in support of, and in opposition to, the earlier motion for preliminary injunction.

one, the less must be shown on the other to support an injunction." (*Id.* at p. 678.) The court must carefully weigh the evidence presented, evaluate the credibility of witnesses, and decide whether the facts warrant a preliminary injunction. (*Fleishman v. Superior Court* (2002) 102 Cal.App.4th 350, 356.)

A ruling on an application for a preliminary injunction is not an adjudication of the ultimate rights in controversy. It merely represents a trial court's discretionary decision whether a defendant (or, here, a respondent) should be restrained from exercising a claimed right pending trial. (Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, 286.)

IV. DISCUSSION

In this section the Court reviews the law for renewed motions, summarizes applicable law and relevant facts, identifies interim harms, balances the merits and the interim harms to the parties, and concludes an injunction should issue.

A. Petitioners' Initial Burden

The City has submitted a declaration stating that "preconstruction work" on demolishing the Trestle will commence on June 10, 2019. (Declaration of Katherine Brown in Opposition to the Renewed Motion for Preliminary Injunction ("Second Brown Declaration"), ¶ 21.) The actual demolition will commence on July 24, 2019. (*Id.*) Petitioners argue the obvious – demolition will cause irreparable harm. They have thus met their initial burden. The Court, therefore, must consider the merits and then balance in the interim harms.

B. Code of Civil Procedure Section 1008

Code of Civil Procedure section 1008, subdivision (b), states:

> A party who originally made an application for an order which was refused in whole or part, or granted conditionally or on terms, may make a subsequent application for the same order upon new or different facts, circumstances, or law, in which case it shall be shown by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.

A party filing a renewed application must show diligence with a satisfactory explanation for not having presented the new or different information earlier. (*Even Zohar Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC* (2015) 61 Cal.4th 830, 839.) The claimed facts,

circumstances, or law must not have been raised or considered in connection with the proceedings that led to the order being challenged.

In its opposition brief, the City argued that Petitioners had failed to submit any declaration stating "what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown" as required under Section 1008. The City argued that the failure to submit any declaration deprived the Court of jurisdiction to hear the Renewed Motion. (See Code Civ. Proc. § 1008, subd. (c).)

Petitioners sought to correct their oversight when they filed their reply papers. On June 7, 2019, counsel for Petitioners submitted a declaration stating the Court should consider "additional facts" and passage of time. In particular, it stated:

> The record provides additional facts to support the [Petitioners'] legal arguments regarding the City's reliance on the 2014 mitigated negative declaration in approving the Streambed Alteration Agreement and various elements of its discretionary approval. In addition, circumstances of the requested injunction have significantly changed as the four-month window for work in Los Gatos has not yet begun, so the [Petitioners] believe[] that the balancing of injunction factors is increasingly in its favor."

(Declaration of Susan Brandt-Hawley in Support of Preliminary Injunction, ¶ 3.)

The reference to "record" is to the administrative record which was lodged with the Court on May 31, 2019. The administrative record 1500 pages long. Petitioners' counsel's declaration does not identify the page number of anything in the administrative record that might show "additional facts." Moreover, the declaration does not describe the "diligence with a satisfactory explanation for not having presented the new or different information earlier" as required by *Even Zohar Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC, supra,* 61 Cal.4th at p. 839.

Petitioners' counsel's declaration, and statements at the hearing, made the point that everyone is aware of the prior preliminary injunction hearing and everyone is familiar with the administrative record. While these statements are likely true, and appear to have been made in

good faith, the Court's jurisdiction to consider the Renewed Motion is at stake; full compliance with the statute is required.[2]

To ensure due process is observed, the Court took it upon itself to review the briefs and explore whether, in fact, Petitioners' counsel's reference to "additional facts" included "new or different facts, circumstances, or law" that could not have been presented to the Court when Petitioners moved for a preliminary injunction in October 2018. Petitioners' opening brief cites a handful of pages in the administrative record they contend shows the City exercised discretion in approving the SAA. (Petitioners' Memorandum of Points and Authorities in Support of the Renewed Motion for Preliminary Injunction ("Renewed MPA") at 11.) Most of these pages were available last October. Indeed, in October the City submitted the Declaration of Katherine Brown (the "First Brown Declaration"). Attached to that declaration were 220 pages of exhibits, including most of the documents cited in the Renewed MPA. The only "new" exhibits identified in the Renewed MPA are pages 1200-1220, 1222-23, and 1285-1305 of the administrative record. Pages 1200-1220 is the "Los Gatos Creek Division Plan" dated July 25, 2018. Pages 1222-1223 is an August 1, 2018 Certificate of Approval – Compliance Determination. It appears these documents were available last October, and even if not, there is nothing in Petitioners' counsel's declaration explaining why they were not available last October and how they are significant in showing the City exercised discretion in approving the SAA.

The Court notes that pages 1285-1305 reflect comments on the July 25, 2018 "Los Gatos Creek Diversion Plan" cited above. There are comments dated September 24, 2018 and September 25, 2018. The persons commenting appear to be Brenda Blinn and Kristin Garrison, who appear to be CDFW Environmental Scientists. Another person with comments is "JDodds," which the Court assumes, but does not know, is another CDFW employee. The comments of JDodds are dated May and July 2018. The comments do not appear to reflect any "negotiation" of the terms of the SAA. Instead, they appear to be one-way directives from CDFW to ensure the Los Gatos Creek Division Plan complies with CDFW requirements. Again, Petitioners'

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[2] The parties submitted supplemental briefs on the issue of whether Code of Civil Procedure section 1008 applies to renewed motions for preliminary injunctions. The Court is persuaded that it does.

counsel's declaration does not address whether this document includes "new" facts and if so, how they are significant in showing the City exercised discretion in approving the SAA.

Ultimately, the Court concludes that Petitioners have failed to fulfill the requirements set forth in Section 1008 that would provide the Court with jurisdiction to consider any "additional facts" alluded to in Petitioners' counsel's declaration. However, that same declaration states: "In addition, circumstances of the requested injunction have significantly changed as the four-month window for work in Los Gatos has not yet begun, so the [Petitioners] believe[] that the balancing of injunction factors is increasingly in its favor." Passage of time is a "new circumstance" that the Court can consider, and is an important factor in weighing interim harms, which is discussed later in this Order.

C. Merits

The Court's analysis of the merits of Petitioners' claims has not changed since October when it concluded "the probability of Petitioners prevailing on the merits is low." But because the parties' arguments have become more crystalized, the Court is now better able to articulate its analysis.

1. What is the Scope of the Project?

The first question is the scope of the Three Creeks Project. "Project" is defined in section 21065 of the Public Resources Code and section 15378 of the Guidelines.[3] "Project means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. . . ." (Guidelines, § 15378, subd. (a).) In addition, "the term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by government agencies. The term 'project' does not mean each separate government approval." (*Id.* § 15378, subd. (c).)

The MND defined the "project" as involving "the demolition of an existing wood railroad trestle and the construction of a new pedestrian bridge over Los Gatos Creek." Consequently, the City's approval of the Three Creeks Project included approval of the entire project, including

[3] References to the "Guidelines" is shorthand for sections of Cal. Code Regs. tit. 14, div. 6, ch. 3.

demolition of the Trestle and construction of the steel truss bridge. The SAA is subsumed within the Three Creeks Project and therefore does not, by itself, require a separate and distinct CEQA review.

2. When Must New Information Be Considered?

The second question is what constitutes "new information" and under what circumstances does CEQA require it be considered. Under Public Resource Code section 21166, "When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency" unless there is "new information." (Pub. Res. Code § 21166, subd. (c).)

Petitioners argue the May 2017 listing of the Trestle as a historic resource is "new information" that requires an EIR. However, "Once a project has been approved, the lead agency's role in project approval is completed unless further discretionary approval on that project is required. Information appearing after an approval does not require re-opening of that approval." (Guidelines § 15162, subd. (c).) Or, as stated in a leading CEQA treatise: "Once a project has received all necessary discretionary approvals, the CEQA process ends. No further environmental review can be required, even though circumstances change significantly or important new information becomes available." (2 Kostka & Zischke, *Practice Under the California Environmental Quality Act,* § 19.22 (March 2019).) "Once all discretionary approvals for project have been obtained, no agency has jurisdiction to require a further EIR." (*Id.* § 19.31.)

3. What is Discretionary Approval?

New information need not be considered if a project has received all necessary discretionary approvals. So what are "discretionary approvals"? CEQA categorizes agency actions as either discretionary or ministerial. A discretionary action requires judgment or deliberation by the public agency or body in approving or disapproving it. (See Guidelines § 15357.) An action is ministerial if the public agency has to determine merely whether the

activity conforms to the applicable statutes, regulations, or ordinances and the agency does not exercise judgment over whether, or how the activity should be carried out. (See *id.* & § 15369.)

It can be difficult to determine if an approval is discretionary or ministerial. There are a handful of cases, however, that provide guidance on how to distinguish between them. *Friends of Juana Briones House v. City of Palo Alto* (2010) 190 Cal.App.4th 286, 302 states:

> [T]he pertinent judicial decisions have developed a "functional" test for distinguishing ministerial from discretionary decisions. (*Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 272.) That test examines whether the agency has the power to shape the project in ways that are responsive to environmental concerns. (*Id.* at p. 267; *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 117.) Under this functional test, a project qualifies as ministerial "when a private party can legally compel approval without any changes in the design of its project which might alleviate adverse environmental consequences." *Friends of Westwood, supra,* 191 Cal.App.3d at p. 267, 235; accord, *Miller v. City of Hermosa Beach* (1993) 13 Cal.App.4th 1118, 1141-1142.) "Conversely, where the agency possesses enough authority (that is, discretion) to deny or modify the proposed project on the basis of environment consequences the EIR might conceivably uncover, the permit process is 'discretionary' within the meaning of CEQA." (*Friends of Westwood, supra,* 191 Cal.App.3d at p. 272.)

(form of citations modified.) This guidance is applied to the facts in this case below.

An important point is that an agency's decision not to prepare a supplemental EIR must be upheld if there is substantial evidence in the agency's record. (*The Committee for Re-Evaluation of the T-Line Loop v. San Francisco Municipal Transportation Agency, et al.* (2017) 6 Cal.App.5th 1237, 1247.) In reviewing the record, "The court defers to the agency as finder of fact, and indulges all reasonable inferences from the evidence that support the agency's findings, and resolves conflicts in the evidence in favor of the agency's decision." (*Id.*)

4. What is an SAA?

CDFW regulates work that will substantially affect resources associated with rivers, streams, and lakes in California, pursuant to Fish and Game Code sections 1600-1607. Any action that substantially diverts or obstructs the natural flow or changes the bed, channel, or bank of any river, stream, or lake, or uses material from a streambed must be authorized by CDFW in a Lake or Streambed Alteration Agreement.

California law requires that CDFW be notified of any action that affects a streambed along with a significant amount of information concerning the action. (Fish & Game Code § 1602, subd. (a)(1).) Then, if CDFW "determines that the activity may substantially adversely affect an existing fish or wildlife resource" it will issue "a final agreement to the entity that includes reasonable measures necessary to protect the resource. . . ." (*Id.* § 1602, subd. (a)(4)(B).) CDFW is thus in charge. As articulated by CDFW's counsel at the hearing, "CDFW has the final word." It is CDFW that "shall determine whether the activity may substantially adversely affect an existing fish and wildlife resource." (*Id.* § 1603, subd. (a).) And it is CDFW that "shall provide a draft agreement to the entity within 60 days after the notification is complete." (*Id.*) CDFW confirms these procedures in its Consideration for Purposes of the California Environmental Quality Act for the Three Creeks Project, dated October 4, 2018. On page 5 CDFW states: "Nothing in the Fish and Game Code provisions governing streambed alteration agreements gives CDFW authority to disapprove or otherwise decline to issue the streambed alternation agreement for the Project."

The entity seeking the SAA has a limited role. The entity "shall notify the department whether the measures to protect fish and wildlife resources in that draft agreement are acceptable" and those that are unacceptable. (Fish & Game Code § 1603, subd. (b).) Then, CDFW and the entity must seek out a mutual agreement on reasonable measures necessary to protect the resource. If the parties cannot reach agreement, "the entity may request, in writing, the appointment of a panel of arbitrators to resolve the disagreement." (*Id.* § 1603, subd. (b).)

5. Did the City Exercise Discretion in Obtaining the SAA?

Petitioners argue the City exercised its discretion in approving the SAA. In the Renewed MPA they argue: (1) the City chose to request a new SAA; (2) the City and CDFW corresponded for months; (3) the City stated that as a "Habitat Plan Co-Permittee" it used discretion in exempting this project from the Habitat Plan; (4) the City and CDFW made changes to a draft SAA; and (5) the SAA was a mutual agreement between the City and CDFW. (Renewal MPA at 11.) In their reply brief, Petitioners also argue: (1) the City's "agreement to abide by SAA terms in 2014 applied to a different SAA and does not in any way limit its

discretion to apply and/or follow through in the 2018 SAA; and (2) the City has the discretion to change course and evaluate new information. (Reply Brief at pp. 9-10.)

In opposing the preliminary injunction, the City cites its final approval of the MND, in which the City states it "will apply for a Streambed Alteration Agreement from CDFW and will be responsible for the implementation of all its conditions." (MND at p. 3.) The City thus argues that any discretionary approval of the SAA occurred in 2014, not 2018. The City also argues that the applicable Fish and Game Code statutes do not allow an applicant to propose changes to an SAA. All an applicant can do is object to provisions, and if those objections are not addressed, the applicant can request arbitration. Putting the statute aside, the City also argues that in fact it did not negotiate with CDFW at all. (Second Brown Declaration, ¶¶ 7-13.) The City concludes: "The City's signature on the Agreement does not reflect any contractual arms-length negotiation, but rather, the City's pledge to abide by its terms." (Opp. MPA at p. 14.)

In October 2018 the Court analyzed whether the SAA was a discretionary action and ultimately concluded that "the probability of Petitioners prevailing on the merits is low. . . ." Even if the Court were able to consider the "additional facts" presented in Petitioners' Renewed MPA and their Reply Brief, which is cannot under Code of Civil Procedure section 1008, subdivision (b), it would reach the same conclusion now. There are, however, a few minor wrinkles. For example, there is a statement in a document prepared by Ms. Brown that "the City recognizes that, as a Habitat Plan Co-Permittee, it is using some discretion in exempting this project from the Habitat Plan based on the passage of time since the original permits were issued." (AR 996-97.) This statement appears to reference the Santa Clara Valley Habitat Plan (see AR 1362), but there is a question of whether the statement that the City is "using some discretion" might support, in part, Petitioner's argument that the City in fact exercised discretion in connection with the SAA.

Overall, the evidence and the law weigh heavily toward the conclusion that the City did not exercise discretion in the preparation of the SAA. If any discretion was exercised, it was by CDFW, and as discussed at the hearing, Petitioners are not asking that CDFW investigate

whether it needs to prepare an EIR because its jurisdiction does not allow it to consider the May 2017 listing of the Trestle.

D. Interim Harms

As noted above, Petitioners' counsel's declaration states: "[C]ircumstances of the requested injunction have significantly changed as the four-month window for work in Los Gatos has not yet begun, so the [Petitioners] believe[] that the balancing of injunction factors is increasingly in its favor." In their Renewed MPA, Petitioners explain that "[t]o protect the remedy prayed for in the Conservancy's mandamus petition – a peremptory writ to enforce CEQA's procedural and substantive protections of historic resources – the Trestle must remain standing. Demolition would moot the case and defeat the Court's jurisdiction."

In opposing the original motion for preliminary injunction, the City submitted evidence supporting its contention that if demolition were delayed, the City would suffer substantial financial losses. (See Declaration of Michael O'Connell (Oct. 3, 2018), ¶¶ 3-7.) In opposing the Renewed Motion, the City reports it has already incurred "$269,000 in unnecessary costs." (Second Brown Decl. ¶ 18.) Nowhere, however, does the City provide information about financial losses that might be incurred if demolition of the Trestle were delayed by a number of weeks as a result of an injunction. Evidence submitted by the City indicates that an injunction might prevent completion of the Three Creeks Project before October 15, 2019, when stream protections limit construction in Los Gatos Creek until June 15, 2020. (Second Brown Decl. ¶¶ 20-26.) But there is no evidence of interim harms that would be caused by a short delay.

E. Balancing the Merits and the Interim Harms

In October 2018, this Court balanced the weak merits against the interim harms. It agreed with Petitioners that their interim harm would effectively terminate the litigation. But given the weak merits of Petitioners' claims, and given the substantial financial losses the City would incur, in addition to a half-year delay, the Court concluded it had to deny the motion for preliminary injunction.

At present, the Court's view of the merits is similar to its view in October. However, this time around the Court is more familiar with the facts of the case and now has a copy of the

certified administrative record. In addition, the Court has set a hearing on the merits on June 27, 2019 – just 15 days from now. The Court has received Petitioners' opening brief on the merits, and will receive the merits opposition and reply briefs shortly.[4] The City has not presented evidence of imminent financial losses that might be caused by a short delay. Indeed, given the lengthy construction schedule, an injunction may not cause any delay in completing the Three Creeks Project.

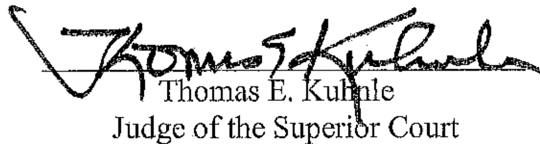
After assessing the merits and balancing the interim harms, the Court concludes an injunction must issue.

V. DISPOSITION

The Court hereby ENJOINS the City of San Jose and its officers, agents, employees, representatives, and all persons acting in concert or participating with them, from demolishing the Willow Glen Trestle until judgment is entered. Judgment is expected to be entered no later than July 5, 2019. To be clear, this injunction in no way affects preconstruction surveys to be completed by certified and approved biologists. It also does not affect mobilization and site preparation work, including tree trimming, removal of built-up creek debris, installation of access pad, and creek diversion. The Trestle cannot, however, be torn down.

This preliminary injunction shall be effective immediately, but it is conditioned on Petitioners posting a nominal undertaking in the amount of $1.00 (one dollar) on or before June 14, 2019.[5] If the undertaking is not posted by 11:59 p.m. on June 14, 2019, the preliminary injunction will immediately dissolve.

Dated: June 12, 2019



Thomas E. Kuhnle
Judge of the Superior Court

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[4] On May 24, 2019, the parties submitted a stipulation that included a deadline for submission of the administrative record, and briefing schedules for both the Renewed Motion and briefs filed in support of, and in opposition, to issuance of the writ. The hearing on the writ is scheduled on June 27, 2019, at 9:00 a.m.

[5] The Court is persuaded by the authorities cited by Petitioners that only a nominal bond needs to be posted.

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CLERK'S CERTIFICATE OF SERVICE: I am employed by the Santa Clara County Superior Court, San Jose, California. I certify that I am not a party to this case and that a true copy of this document was distributed to each party listed below by way of that stated.

Clerk of the Court,
Superior Court of CA County of Santa Clara

6/12/19

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