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 25 SAN FRANCISCO BAYKEEPER

26 UNITED STATES DISTRICT COURT
 27 NORTHERN DISTRICT OF CALIFORNIA

28 SAN FRANCISCO BAYKEEPER, a California
 non-profit corporation,

Plaintiff,

v.

WEST BAY SANITARY DISTRICT, a California
 independent municipal corporation,

Defendant.

Civil Case No.: C-09-05676 EMC

**[PROPOSED] ORDER REQUIRING
 PAYMENT OF PLAINTIFF'S INTERIM
 FEES AND COSTS AWARD**

Judge: Honorable Edward M. Chen
 Location: United States District Court
 450 Golden Gate Ave
 Courtroom 5, 17th Floor

1 **[PROPOSED] ORDER**

2 Plaintiff San Francisco Baykeeper’s (“Plaintiff”) motion for an interim award of attorneys’ fees
3 and costs came on for hearing before the Court on October 7, 2011. Docket No. 139. In its order on
4 Plaintiff’s motion, the Court found that Plaintiff was entitled to an award of \$435,621.37 in fees and
5 costs as a prevailing party under the Clean Water Act. Docket No. 174. During the further status
6 conference for this matter on December 2, 2011, the Court deferred payment of Plaintiff’s interim fees
7 and costs as awarded until resolution of Defendant West Bay Sanitary District’s (“Defendant”)
8 application for leave to file a motion pursuant to Rule 12(h). *See* Docket No. 175. On December 12,
9 2011, in their updated joint status report, the parties informed the Court that Defendant no longer intends
10 to seek leave to file its proposed motion. Therefore further deferral is unwarranted. Moreover,
11 Defendant’s payment of interim fees and costs awarded by the Court is unrelated to Defendant’s
12 previously proposed motion. *See Chesapeake Bay Found. v. Gwaltney*, 484 U.S. 49, 67 n.6 (1987) (to
13 protect citizen-plaintiffs, the award of litigation costs under section 1365(d) extends to “plaintiffs in
14 actions which result in successful abatement but do not reach a verdict”).

15 After careful consideration of the relevant legal authority, all papers filed by Plaintiff and
16 Defendant related to Defendant’s payment of Plaintiff’s interim fees and costs, and good cause
17 appearing:

18 IT IS ORDERED that Defendant shall reimburse Plaintiff \$435,621.37 in litigation costs,
19 including attorneys’ fees and other costs, awarded by the Court within ⁶⁰~~30~~ days of the date of this order.

20 IT IS FURTHER ORDERED that the payment required by this Order shall be made in the form
21 of a check payable to “*Lawyers for Clean Water Attorney Client Trust Account*” addressed to: 1004-A
22 O’Reilly Avenue, San Francisco, CA 94129, sent overnight delivery.

23 IT IS SO ORDERED.

24
25 Dated: 12/14, 2011

26
27
28 HONORABLE
UNITED STATES

