

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 WALNUT CREEK MANOR, LLC,

No. C 07-5664 CW

5 Plaintiff,

ORDER DENYING

MOTION FOR

6 v.

RECONSIDERATION

(Docket No. 341)

7 MAYHEW CENTER, LLC, and DEAN
8 DUNIVAN,

9 Defendants.
10 _____/

11 On December 30, 2013, Defendants Dean Dunivan and Mayhew
12 Center LLC moved for reconsideration of the Court's December 10,
13 2013 order releasing the remaining escrow funds to Plaintiff
14 Walnut Creek Manor. Defendants' motion is based on a recent
15 letter from the Regional Water Quality Control Board (RWQCB) which
16 purportedly "shows that Dunivan and Mayhew are, contrary to
17 Plaintiff's allegations, working diligently and with the RWQCB to
18 remediate the PCE [contamination]" and that "they are making
19 progress." Docket No. 341, Mot. Reconsideration, at 2.

20 The RWQCB's letter does not justify reconsideration of the
21 Court's order. As previously explained, Plaintiff is entitled to
22 recover the remaining escrow funds under the express terms of the
23 November 2010 injunction because Defendants failed to complete
24 their cleanup and abatement obligations by the deadline set forth
25 in the injunction and subsequently extended by this Court. The
26 RWQB's letter does not change this fact and, if anything, confirms
27 that Defendants have yet to complete their cleanup and abatement
28 obligations.

1 Defendants' motion for reconsideration (Docket No. 341) is
2 therefore DENIED. Plaintiff shall respond to the findings in the
3 RWQCB's letter in its supplemental brief on January 8, 2014. As
4 stated in the December 10, 2013 order, whatever funds currently
5 remain in the escrow account shall remain there pending the
6 January 23, 2104 hearing.

7 IT IS SO ORDERED.

8
9 Dated: 1/3/2014


CLAUDIA WILKEN
United States District Judge