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United States District Court
For the Northern District of California

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

NORTHERN CALIFORNIA RIVER
WATCH, et al.

Plaintiffs

v.

OAKLAND MARITIME SUPPORT
SERVICES, INC., et al.,

Defendants.

No. C 10-3912 CW (JSC)

**ORDER RE PLAINTIFF'S MOTION
TO COMPEL AND MOTION FOR
SANCTIONS (Dkt. Nos. 49 and 52.)**

This is a Clean Water Act ("CWA") lawsuit. Plaintiffs seek to compel Defendants (1) to permit three site inspections pursuant to Federal Rule of Civil Procedure 34, and (2) and for production of financial information relevant to the penalties sought in this action. After carefully considering the parties' written submissions, and having heard oral argument on November 17, 2011, for the reasons stated during oral argument, the Court GRANTS Plaintiffs' motion to compel (Dkt. No. 49) in part and DENIES Plaintiffs' Motion for Sanctions (Dkt. No. 52).

1. Plaintiffs, with Defendants' consent, have already completed one "dry" inspection. Defendants are ordered to permit two "wet" inspections not to exceed five hours each. As the Complaint is not limited to the vehicle maintenance area, the inspections may cover the entire facility and are not limited to the maintenance area.

2. Defendants are ordered to comply with Plaintiffs' request for financial documents. Such documents are relevant to Plaintiffs' claim that Defendants should pay a

1 penalty for their alleged CWA violation. That the penalty will ultimately be paid to the
2 government rather than Plaintiffs does not impact the documents' relevance. The Court will
3 determine an appropriate penalty, if any, based on Plaintiffs' argument—an argument they
4 cannot make if they have not seen the financial information. The Court also declines
5 Defendants' implicit invitation to stay any financial information discovery until after a
6 finding of liability. This case is scheduled for a single bench trial in November 2012.
7 Moreover, discovery has already been delayed due to Defendants' previous counsel's
8 unavailability. Plaintiffs shall produce the financial documents within 60 days after the date
9 of this Order. The parties should work together to negotiate the terms of a protective order to
10 govern this production.

11 3. Plaintiffs' Motion for Sanctions is denied.

12 **IT IS SO ORDERED.**

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14 Dated: November 17, 2011

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17 JACQUELINE SCOTT CORLEY
18 UNITED STATES MAGISTRATE JUDGE
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