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4 DEE THOMAS MURPHY;
ADVANCED ENVIRONMENTAL SYSTEMS, INC., and
5 AES CENTRAL COAST DISCHARGE ELIMINATION COMPANY

6 Respondent: Dee Thomas Murphy, et al.

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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN LUIS OBISPO**

11 **DEE THOMAS MURPHY, et al,**

12 Petitioners,

13 vs.

14 **STATE OF CALIFORNIA, et al.**

15 Respondent

Case No: CV080510

**PLAINTIFF'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
OPPOSITION TO DEFENDANT
STATE OF CALIFORNIA, ET AL.'S
NOTICE OF DEMURRER AND
DEMURRER TO COMPLAINT**

Judge: Barry La Barbera
Trial Date: Not set
Action Filed: June 2, 2008

Moving Party: All Plaintiffs

Responding Party: All Defendants

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22 **INTRODUCTION**

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24 **DECLARATION OF FACTS AND MERITS**

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26 Now come Plaintiffs in opposition to Defendants Motion of Demurrer and Demurrer to
27 Complaint. A demurrer attacks a complaint as missing one or more required elements of a claim.
28 For example, a negligence cause of action must allege that: 1) the defendant owed a duty to the
plaintiff; 2) the defendant breached the duty; 3) the breach caused plaintiff injury; and 4) the

1 plaintiff suffered damage. A defendant could demur by saying that the complaint failed to plead
2 one or more of these essential elements, however; in this case, the complaint pleads ALL
3 elements of consideration.

4 In answer to “1)”, the Defendants owe the Plaintiff, under their fiduciary duties as regulatory
5 authorities in the Plaintiffs industry, approval of Plaintiffs RECLAMATOR technology that
6 purifies sewage to federal drinking water quality, which they refuse to do. and take it to the other
7 extreme and attack the Plaintiffs technology; and,

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9 In answer to “2)”, the Defendants have maliciously attacked the Plaintiffs “sewage to tap” water
10 purification technology and refused to issue approval of the technology now for over 15 years, a
11 blatant breach of their fiduciary duty and their duty of care obligations as a regulatory authority
12 as the Plaintiffs are subject to such regulatory authority’ approval to do business in such
13 authority’s jurisdiction and to refuse Plaintiffs of such which in turn prevents, under normal
14 circumstances, public access to such awesome sustainable alternative water source, is a blatant
15 breach of their duties; and,

16 In answer to “3)”, the Defendants caused Plaintiffs injury through maliciously attacking the
17 Plaintiffs credibility, claiming Plaintiffs are communicating false and untrue information and
18 claims to the public, Defendants clearly knowing differently. The Defendants degraded the
19 Plaintiffs’ and Plaintiffs’ integrity, claiming Plaintiffs’ technology didn’t eliminate all discharges
20 of pollutants by saying it discharged waste into the water table, despite Plaintiffs’ claims. This
21 represents unquestionable injury to Plaintiffs; and,

22 In answer to “4)”, the Defendants caused Plaintiffs damages depriving Plaintiffs of doing
23 business in the Defendants jurisdiction implementing the federally mandated best practicable
24 control technology currently available (See Process Guarantee in attached Exhibits) per US Code
25 Title 33 Chapter 26. Damages are calculated since 1995 when the NSF Technology Evaluation
26 Report was sent to the Defendants by NSF advising them of the demonstrated performance under
27 the Nationally accepted NSF Standard 40 including the alternative Nitrogen Series Analyses
28 which demonstrated a average nitrate level of 1.6mg/l. Upon Defendants becoming aware of the
performance of the technology, the Defendants were obligated under the pretreatment