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FILED
Superior Court Of California,
Sacramento
01/11/2010
awoodward
By _____, Deputy
Case Number:
34-2010-00067944

Exempt from filing fees pursuant to
Government Code Section 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

COUNTY OF GLENN, a general law county and a
political subdivision of the State of California; and
DON SANTORO, Director of Finance for the County
of Glenn,

Plaintiffs

vs.

STATE OF CALIFORNIA as a state; ARNOLD
SCHWARZENEGGER as Governor of California;
JOHN CHIANG as State Controller; BILL LOCKYER
as State Treasurer; ANA MATOSANTOS as Director
of the State Department of Finance; DEPARTMENT
OF FISH AND GAME; JOHN McCAMMAN as
Acting Director of the State Department of Fish and
Game; and DOES 1 through 20, inclusive,

Defendants.

Case No.

COMPLAINT FOR MONIES OWED

JUDGE:

Department:

Department
Assignments
Case Management 44
Law and Motion 53
Minors Compromise 16

DEEMED IN COMPLIANCE WITH
VERIFICATION REQUIREMENT
PURSUANT TO CODE OF CIVIL
PROCEDURE SECTION 446,
SUBDIVISION (a)

Plaintiffs County of Glenn and Director of Finance Don Santoro (collectively "County")
allege as follows:

PARTIES

1. Plaintiff COUNTY OF GLENN is, and at all times herein mentioned was, a
general law county and a political subdivision of the State of California.

2. Plaintiff DON SANTORO is, and at all times herein mentioned was, the Director

1 of Finance for the County of Glenn and is charged with the responsibility of the receipt and
2 collection of the outstanding sums of money owed as alleged in this Complaint.

3 3. Defendant STATE OF CALIFORNIA ("State") is, and at all times herein
4 mentioned was, a state government.

5 4. Defendant ARNOLD SCHWARZENEGGER ("Governor") is the duly elected
6 Governor for the State of California, sued herein in his official capacity only. The Governor is
7 responsible for all aspects of State functions and budget.

8 5. Defendant JOHN CHIANG ("Controller") is the duly elected Controller for the
9 State of California, sued herein in his official capacity only. The Controller is responsible for
10 drawing warrants on the State Treasury for the payment of money directed, authorized, and
11 required by law.

12 6. Defendant BILL LOCKYER ("Treasurer") is the duly elected Treasurer for the
13 State of California, sued herein in his official capacity only. The Treasurer is responsible for
14 paying warrants drawn by the Controller out of the State Treasury.

15 7. Defendant ANA MATOSANTOS ("Director of DOF") is the appointed Director
16 of the Department of Finance ("DOF") for the State of California, sued herein in her official
17 capacity only. The Director of DOF has general powers of supervision over the financial
18 policies of the State.

19 8. Defendant DEPARTMENT OF FISH AND GAME is, and at all times herein
20 mentioned was, a department of the government of the State of California.

21 9. Defendant JOHN McCAMMAN is the Acting Director of the California
22 Department of Fish and Game, sued herein in his official capacity only. The Acting Director is
23 responsible for causing the payment of fees in lieu of taxes to the County pursuant to Department
24 of Fish and Game Code sections.

25 10. The true names and capacities of Defendants DOES 1 through 20, inclusive, are
26 unknown to County, and therefore County sues these Defendants by such fictitious names
27 pursuant to California Code of Civil Procedure section 474. County will amend this Complaint
28

1 to allege their true names and capacities when ascertained.

2 11. County is informed and believes and thereon alleges that at all times herein
3 mentioned each individual Defendant, including Does 1-20, was an elected or appointed official,
4 agent, servant, or representative of each or some of the other co-Defendants, and in doing the
5 acts herein referred to, each Defendant was purporting to act within the course and scope of his
6 authority as such elected or appointed official, agent, servant, representative, with the express
7 and/or implied approval, permission, knowledge, consent and ratification of all co-Defendants,
8 and was in some manner responsible for the occurrences hereinafter alleged.

9 **CAUSE OF ACTION**

10 **(Statutory Monies Owed)**

11 12. Prior to fiscal year 2002/2003, Defendants, and each of them, caused payment of
12 "in lieu fees" to be properly made to the County of Glenn pursuant to Fish and Game Code
13 section 1504(a) as a result of certain real property located in the County of Glenn being subject
14 to the provisions of said section.

15 13. Commencing with fiscal year 2002/2003 and each fiscal year thereafter through
16 2008/2009, the Defendants, and each of them, have failed to pay "in lieu fees" owed to the
17 County of Glenn pursuant to Fish and Game Code section 1504(a).

18 14. Fish and Game Code section 1504(a) states:

19 "When income is derived directly from real property acquired and
20 operated by the state as wildlife management areas, and regardless of
21 whether income is derived from property acquired after October 1,
22 1949, the department shall pay annually to the county in which the
23 property is located an amount equal to the county taxes levied upon
24 the property at the time title to the property was transferred to the
25 state. The department shall also pay the assessments levied upon the
26 property by any irrigation, drainage, or reclamation district."

27 15. Defendants, and each of them, have taken the same position in each fiscal year
28 commencing with 2002/2003 to the present that notwithstanding the plain mandatory language
set forth in Fish and Game Code section 1504(a), the lack of appropriated funds in the budget of

1 the Department of Fish and Game as a result of budgetary decisions made during tough
2 economic times precludes the payment of "in lieu fees" to the County of Glenn as required by
3 the afore-mentioned code section.

4 16. Commencing for fiscal year 2002/2003 and each fiscal year thereafter through
5 2008/2009, County has sent a Delinquent Secured Property Tax Notice to Defendant Department
6 of Fish and Game indicating the amount owed by Defendants, and each of them, for failure to
7 pay the afore-mentioned "in lieu fees" for each said fiscal year, with a demand that payment be
8 made to Glenn County Tax Collector, P. O. Box 151, Willows, CA 95988. No response and no
9 payment were ever received from Defendants, and each of them.

10 17. Commencing for fiscal year 2002/2003 and each fiscal year thereafter through
11 2008/2009, County has sent a Delinquent Prior Year Secured Property Tax Notice to Defendant
12 Department of Fish and Game indicating the amounts owed by Defendants, and each of them, for
13 failure to pay the afore-mentioned "in lieu fees" for each of the past fiscal years, with a demand
14 that payment be made to Glenn County Tax Collector, P. O. Box 151, Willows, CA 95988. No
15 response and no payment were ever received from Defendants, and each of them.

16 18. According to Fish and Game Code section 1504(a), the County of Glenn should
17 have been paid the following: 2002/03 in the amount of \$57,411.02; 2003/04 in the amount of
18 \$57,765.29; 2004/05 in the amount of \$58,812.10; 2005/06 in the amount of \$59,066.10;
19 2006/07 in the amount of \$59,150.37; 2007/08 in the amount of \$59,150.37; and 2008/09 in the
20 amount of \$59,150.37.

21 19. Prior to fiscal year 2009/2010, the amount owed by Defendants, and each of them,
22 to County pursuant to Fish and Game Code section 1504(a), including penalties and interest,
23 equals \$669,792.73. The amount owed for fiscal year 2009/2010 does not become delinquent
24 until April 10, 2010, and, if unpaid, will be appropriately plead before the Court.

25 20. The statutory mandate imposed on the Defendants, and each of them, to annually
26 pay to the County an amount equal to the County taxes levied upon the subject property at the
27 time title to said property was transferred to the state as set forth in the afore-mentioned Fish and
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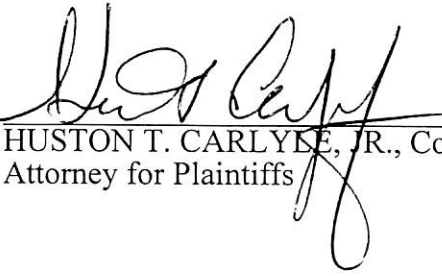
1 Game Code sections, and the failure of the Defendants, and each of them, to so comply with said
2 mandate, precludes the need to file a claim with the State of California. Further, the reason(s)
3 given by Defendants, and each of them, for failure to pay the afore-mentioned sums of money
4 owed to County preclude the need to file a claim with the State of California pursuant to the
5 Government Code for the law does not require a futile act, as evidenced by the facts contained in
6 paragraphs 15, 16, and 17 herein, with emphasis on the failure of the Defendants to even respond
7 to the demand for payment required by law. Finally, the demands filed by the County as set
8 forth in paragraphs 16 and 17 are sufficient to comply with any requirement that a claim be
9 submitted prior to the filing of this Complaint, based upon the circumstances alleged herein.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, County prays for relief against Defendants, and each of them, as
12 follows:

- 13 1. The County be paid all back amounts owed according to proof;
- 14 2. The County be paid normal penalties and interest that delinquent real property
15 would incur;
- 16 3. For all cost of suit incurred herein; and
- 17 4. For such other relief as the court deems just and proper.

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19 DATED: January 11, 2010

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22 HUSTON T. CARLYLE, JR., County Counsel
23 Attorney for Plaintiffs
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