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20
21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **FOR THE COUNTY OF SANTA CLARA**
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1 SANTA MARIA VALLEY WATER)
CONSERVATION DISTRICT,)

2)
3 Plaintiff,)

4 vs.)

5 CITY OF SANTA MARIA, et al.,)

6 Defendants.)

7 AND ALL RELATED CROSS-ACTIONS)
CONSOLIDATED FOR ALL PURPOSES)

) **CASE NO. CV770214** and
) Consolidated Cases

) **NIPOMO MESA MANAGEMENT**
) **AREA TECHNICAL GROUP'S NOTICE**
) **OF MOTION AND MOTION FOR**
) **COURT APPROVAL OF NIPOMO**
) **MESA MANAGEMENT AREA WATER**
) **SHORTAGE CONDITIONS AND**
) **RESPONSE PLAN; [PROPOSED]**
) **ORDER**

) Assigned for all Purposes to Hon. Jack
) Komar

) Date: May 22, 2009
) Time: 9:00 a.m.
) Dept.: 17

11 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

12 **PLEASE TAKE NOTICE** that on May 22, 2009, at 9 a.m., or as soon thereafter as the
13 matter may be heard in Department 17 of the above entitled Court, located at 161 North First
14 Street, San Jose, California, defendants, cross-complainants and/or cross-defendants Nipomo
15 Community Services District, Golden State Water Company, Rural Water Company, Woodlands
16 Ventures, LLC, Jacqueline Frederick (as the representative of overlying agricultural landowners),
17 and ConocoPhillips Company (hereinafter the "Nipomo Mesa Management Area Technical
18 Group" or "NMMA Tech Group") will and hereby do move for an order approving the Nipomo
19 Mesa Management Area's Water Shortage Conditions and Response Plan ("Response Plan").

20 The Stipulation entered into on June 30, 2005 (the terms of which were incorporated by
21 this Court's Judgment entered on January 25, 2008) provides that the NMMA Tech Group file an
22 Annual Report with the Court on or by April 30. While the Annual Report does not require
23 Court approval, the Stipulation further provides that the NMMA Tech Group is to develop
24 criteria for declaring the existence of potentially severe water shortage conditions and the
25 existence of severe water shortage conditions. Pursuant to the terms of the Stipulation, these
26 water shortage criteria are to be approved by this Court. (Stipulation at p. 25, ll. 5-7.)

27 The Response Plan, which incorporates the criteria for declaring the existence of
28 potentially severe water shortage conditions and severe water shortage conditions, is attached to

1 the Annual Report being filed with this motion as Appendix "B" (pages 87-106 of the Annual
2 Report). The NMMA Tech Group requests this Court approve the Response Plan pursuant to the
3 requirement stated in the Stipulation and incorporated into this Court's Judgment dated January
4 25, 2008.

5 This motion will be based on this notice, the attached memorandum of points and
6 authorities, the Annual Report being submitted herewith, as well as the Response Plan attached
7 as Appendix "B" (pages 87-106) to that Annual Report.

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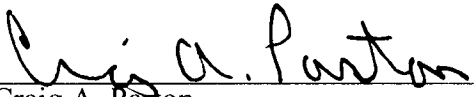
9 Dated: April 28, 2009

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PRICE, POSTEL & PARMA LLP

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By: 
Craig A. Parton
Attorneys for ConocoPhillips Company
and on behalf of all of the NMMA Technical
Group Parties

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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR**
2 **COURT APPROVAL OF NIPOMO MESA MANAGEMENT AREA TECHNICAL**
3 **GROUP'S WATER SHORTAGE CONDITIONS AND RESPONSE PLAN**
4

5 I.

6 **THE NIPOMO MESA MANAGEMENT AREA'S TECHNICAL GROUP IS FILING ITS**
7 **INITIAL ANNUAL REPORT AND RESPONSE PLAN WITH THIS MOTION**

8 A number of the parties to the underlying litigation entered into a Stipulation dated June
9 30, 2005 ("Stipulation"), the terms of which were incorporated into this Court's January 25, 2008
10 Judgment. In particular, the Stipulation created three groundwater management areas: (1) the
11 Santa Maria Valley Management Area; (2) the Northern Cities Management Area; and (3) the
12 Nipomo Mesa Management Area (hereinafter "NMMA"). This motion is brought by those
13 parties identified in the Stipulation as responsible for the preparation and submittal of the Annual
14 Report for the NMMA and responsible for developing, and obtaining Court approval of, the
15 criteria to be employed to declare the existence of potentially severe water shortage conditions
16 and severe water shortage conditions and the responses to those conditions within the NMMA
17 (hereinafter referred to as the "Water Shortage Conditions and Response Plan" or simply the
18 "Response Plan"). Those parties include the Nipomo Community Services District, Golden State
19 Water Company, Rural Water Company, Woodlands Ventures, LLC, Jacqueline Frederick as the
20 representative of overlying agricultural landowners, and ConocoPhillips Company.

21 Pursuant to the terms of the Stipulation, the Nipomo Mesa Management Area Technical
22 Group ("NMMA Tech Group" or "Tech Group") is to file an Annual Report with this Court by
23 April 30. (Stipulation at p.10, ll. 6-12.) The Annual Report is to summarize the results of the
24 Monitoring Program previously submitted by the NMMA Tech Group and approved by order of
25 this Court dated September 5, 2008, analyze any changes in groundwater supplies, and comment
26 on any threats to groundwater supplies. The Annual Report is also to provide a tabulation of
27 water use within the NMMA, including imported water availability and use, return flow
28 entitlement and use, other developed water availability and use, and groundwater use. The

1 Stipulation further provides that any stipulating party may object to the reported results or the
2 Annual Report by motion. (Stipulation, at p. 10, ll. 6-12.)

3 The NMMA Tech Group's Annual Report for 2008 and the Response Plan attached to
4 that report as Appendix "B" (pages 87-106) are being filed with this motion. The Annual Report
5 and Response Plan are the result of a substantial collaborative effort that included intensive
6 deliberations amongst a number of licensed hydrogeologic and engineering professionals.

7 The NMMA Tech Group conducted regularly noticed meetings, developed and adopted
8 operating rules and a budget, and jointly pursued the development of the attached Annual Report
9 and Response Plan. The Tech Group has requested and received comments from a variety of
10 sources in developing both the Annual Report and the Response Plan attached to that report. The
11 Tech Group considered those comments and has made appropriate amendments to the Annual
12 Report and Response Plan. The operating rules require that there be unanimous approval for the
13 Tech Group to take any action. All members of the Tech Group, therefore, have approved the
14 attached Annual Report and Response Plan.

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16 **II.**

17 **THE NMMA TECH GROUP REQUESTS COURT APPROVAL OF THE WATER**
18 **SHORTAGE CONDITIONS AND RESPONSE PLAN ("RESPONSE PLAN")**
19 **ATTACHED AS APPENDIX "B" (PAGES 87-106) TO THE ANNUAL REPORT**

20 The Stipulation provides that the NMMA Tech Group submit a Monitoring Program to
21 this Court for approval. (Stipulation at p. 9, ll. 13-15.) As previously noted, the NMMA Tech
22 Group previously submitted its Monitoring Program to this Court and the Court approved that
23 Monitoring Program on September 5, 2008.

24 The Stipulation also provides for the NMMA Tech Group to develop a criteria for
25 declaring the existence of potentially severe and severe water shortage conditions. (Stipulation at
26 p. 25, ll. 1-5, 17-20.) The criteria for these conditions are to be developed by the Tech Group and
27 also approved by the Court. (Stipulation at p. 25, ll. 5-8.)

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1 The Stipulation provides that the criteria for potentially severe water shortage conditions
2 “shall be designed to reflect that water levels beneath the NMMA as a whole are at a point at
3 which voluntary conservation measures, augmentation of supply, or other steps may be desirable
4 or necessary to avoid further decline in water levels.” (Stipulation at p. 25, ll. 7-10.)

5 The Stipulation goes on to provide that the NMMA Tech Group is to also develop
6 criteria for declaring “severe water shortage conditions.” The Stipulation states that the Tech
7 Group “shall develop the criteria for declaring that the lowest historical water levels beneath the
8 NMMA as a whole have been reached or that conditions constituting sea water intrusion have
9 been reached.” The criteria for potentially severe and severe water shortage conditions shall be
10 approved by the Court. (Stipulation at p. 25, ll. 18-22.)

11 Appendix “B” attached to the Annual Report contains the Water Shortage Conditions and
12 Response Plan which addresses the criteria for declaring both potentially severe and severe water
13 shortage conditions and responses to those conditions. The NMMA Tech Group asks that this
14 Court approve that Response Plan pursuant to the requirement of the Stipulation.

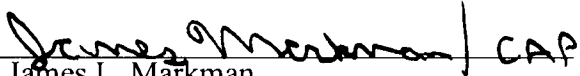
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16 **III.**

17 **CONCLUSION**

18 The NMMA Tech Group requests this Court approve, pursuant to the requirements of the
19 Stipulation, the terms of which have been incorporated into this Court’s January 25, 2008
20 Judgment, the Water Shortage Conditions and Response Plan attached as Appendix “B” (pages
21 87-106) to the 2008 Annual Report.

22
23 Dated: April 28, 2009

RICHARDS, WATSON & GERSHON

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25
26 By  CAP
James L. Markman
Steven R. Orr
Attorneys for Nipomo Community Services
District

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Dated: April 28, 2009

BROWNSTEIN HYATT FARBER SCHRECK,
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Robert J. Saperstein
Amy M. Steinfeld
Attorneys for Golden State Water Company

Dated: April 28, 2009

BINGHAM McCUTCHEN LLP

By Geoffrey L. Robinson / CAP
Geoffrey L. Robinson
Attorneys for Woodlands Ventures, LLC

Dated: April 28, 2009

Jacqueline Vitti Frederick / CAP
Jacqueline Vitti Frederick
Representative of Overlying Agricultural
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Dated: April 28, 2009

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