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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF SANTA CLARA

11
12 SANTA MARIA VALLEY WATER)
13 CONSERVATION DISTRICT)

14 Plaintiff,

15 vs.

16 CITY OF SANTA MARIA, et al.,

17 Defendants

18 AND RELATED CROSS-ACTIONS)
19 CONSOLIDATED FOR ALL PURPOSES)

Santa Maria Groundwater Litigation

Lead Case No. **1-97-CV770214**

[Consolidated With Case Numbers:

CV784900 CV784921 CV784926

CV785509 CV785511 CV785515

CV785522 CV785936 CV786971

CV787150 CV787151 CV787152

CV790597 CV790599 CV790803

CV 790741

San Luis Obispo County Superior Court

CV790597 CV790599 CV790803]

Assigned For All Purposes To Judge Komar

20
21 **LOG OBJECTION TO MOTION FOR**
22 **COURT APPROVAL OF NIPOMO**
23 **MESA MANAGEMENT AREA WATER**
24 **SHORTAGE CONDITIONS AND**
25 **RESPONSE PLAN AND OBJECTION**
26 **TO NIPOMO MESA MANAGEMENT**
27 **AREA FIRST ANNUAL PLAN FOR**
28 **CALENDAR YEAR 2008**

[C.C.P. §916]

Date: May 22, 2009

Time: 9:00 a.m.

Dept: 17

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that the LANDOWNER GROUP (“LOG”) objects to
3 Nipomo Mesa Management Area Notice of Motion and Motion for Court Approval of
4 Nipomo Mesa Management Area Water Shortage Conditions and Response Plan and
5 Nipomo Mesa Management Area 1st Annual Plan for Calendar Year 2008 on the
6 grounds that the Judgment in the above-referenced case, currently on appeal in
7 Appellate Case Nos. H032750 and H033544, stays proceedings in the trial court
8 related to matters embraced within such judgment, and that such stay divests the Court
9 of jurisdiction to hear, approve, make findings and/or rule on matters embraced within
10 such judgment on appeal.
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13 *Code of Civil Procedure*, Section 916 provides as follows:

14 “(a) Except as provided in Sections 917.1 to 917.9,
15 inclusive, and in Section 116.810, the **perfecting of**
16 **an appeal stays proceedings in the trial court**
17 **upon the judgment or order appealed from or**
18 **upon the matters embraced therein or affected**
19 **thereby**, including enforcement of the judgment or
20 order, but the trial court may proceed upon any other
21 matter embraced in the action and not affected by the
22 judgment or order.” (Emphasis added.)

23 The Judgment in the above entitled matter provides as follows:

24 “5. The **Groundwater Monitoring Provisions**
25 **and Management Area Monitoring Programs**
26 **contained in the Stipulation**, including Sections
27 IV(D) (All Management Areas); V(B) (Santa Maria
28 Management Area), VI (C) (Nipomo Mesa
Management Area); and VII(1) (Northern Cities
Management Area), inclusive, are independently
adopted by the court as necessary to manage water
production in the basin and **are incorporated herein**
and made terms of this Judgment. The Non-
Stipulating Parties shall participate in, and be

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bound by, the applicable Management Area Monitoring Program. Each Non-Stipulating Party also shall monitor their water production, maintain records thereof, and make the data available to the court or its designee as may be required by subsequent order of the court.”

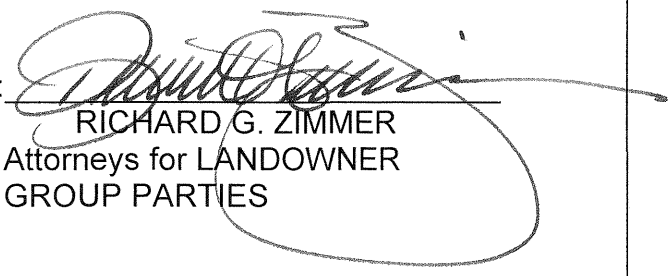
LOG has appealed the judgment. LOG contends on appeal that the Stipulation and Monitoring Program cannot bind LOG since LOG did not sign the Stipulation. Further, LOG contends that the Court had no power to impose a physical solution binding LOG. The physical solution which the Court ordered binding on LOG is the Monitoring Program contained in the Stipulation. Accordingly, all actions by the Stipulating Parties and/or the Court related to the Monitoring Program are stayed as a matter of law by the appeal. This Court has no jurisdiction to proceed with and/or approve the Monitoring Program.

Code of Civil Procedure, Section 916 requires a stay pending appeal to preserve the status quo between the parties. LOG objects to Nipomo Community Services District, Golden State Water Company, Rural Water Company, Woodlands Ventures, LLC, Jacqueline Frederick (as representative of Overlying Agricultural Landowners) and ConocoPhillips Company (described by the Purveyors as the “Nipomo Mesa Management Area Technical Group” or “NMMA Tech Group”) from moving forward with, seeking approval of, presenting evidence regarding, and/or in any other way conducting activities embraced or affected by, or in any way related to, the Groundwater Monitoring Provisions and Management Area Monitoring Programs contained in the Stipulation (June 30, 2005 Version), given the fact that the judgment provides that LOG “shall participate in and be bound by the applicable Management

1 Area Monitoring Program.” LOG further objects to this Court in any way hearing,
2 considering evidence, approving, ruling upon, making findings, and/or making orders in
3 any way related to the judgment, monitoring program and/or stipulation based upon
4 *Code of Civil Procedure*, Section 916 and the stay pending appeal.
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6 LOG requests that the Court dismiss the Nipomo Mesa Management Area
7 Notice of Motion and Motion for Court Approval of Nipomo Mesa Management Area
8 Water Shortage Conditions and Response Plan and Nipomo Mesa Management Area
9 1st Annual Plan for Calendar Year 2008. LOG further requests that the Court order the
10 Purveyors described as the “Nipomo Mesh Management Area Technical Group” from
11 taking any action regarding the Management Area Monitoring Programs.
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14 DATED: May 11, 2009

15 CLIFFORD & BROWN
16
17 By: 
18 RICHARD G. ZIMMER
19 Attorneys for LANDOWNER
20 GROUP PARTIES
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