| 1 2 3 4 5 | RYAN S. BEZERRA, State Bar No. 178048 BARTKIEWICZ, KRONICK & SHANAHAN A PROFESSIONAL CORPORATION 1011 TWENTY-SECOND STREET SACRAMENTO, CALIFORNIA 95816-4907 TELEPHONE: (916) 446-4254 TELECOPIER: (916) 446-4018 E-MAIL: rsb@bkslawfirm.com Attorneys for Cross-Defendant Copa De Oro Land Company | |
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| 7 8 | SUPERIOR COURT OF THE | STATE OF CALIFORNIA |
| 9 | COUNTY OF LO | OS ANGELES |
| 10 11 | Coordination Proceeding Special Title (Rule 1550(b) | JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4408 |
| 12 13 | ANTELOPE VALLEY GROUNDWATER CASES | Case No. BC 391869 Assigned to Hon. Jack Komar (Santa Clara Case No. 01-05-CV-049053) |
| 14 15 16 17 | Included Actions: Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Los Angeles, Case No. BC 325 201; | COPA DE ORO LAND COMPANY'S OBJECTION TO PROPOSED STATEMENT OF DECISION BY FAX |
| 18 19 20 | Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Kern, Case No. S-1500-CV-254-348; | Date: July 11, 2011 Time: 9 a.m. Dept: 316 Judge: Hon. Jack Komar |
| 21 22 · 23 24 | Wm. Bolthouse Farms, Inc. v. City of Lancaster, Diamond Farming Co. v. Lancaster, Diamond Farming Co. v. Palmdale Water Dist., Superior Court of California, County of Riverside, Case No. RIC 353 840, RIC 344 436, RIC 344 668 | a |
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| 1 2 3 | Rebecca Lee Willis v. Los Angeles County Waterworks District No. 40, Superior Court of California, County of Los Angeles, Case No. BC 364 553 | | |
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| 4 | Richard A. Wood v. Los Angeles County | | |
| 5 | Waterworks District No. 40, Superior Court of California, County of Los Angeles, Case | | |
| 6 | No. BC 391869 | | |
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OBJECTION TO PROPOSED STATEMENT OF DECISION

Cross-defendant Copa de Oro Land Company ("Copa de Oro") joins in the Objections of Tejon Ranchcorp to Proposed Statement of Decision Re Phase III Trial, served June 20, 2011. Copa de Oro further objects to the [Proposed] Statement of Decision Re Phase III Trial served by the Public Water Suppliers on the grounds that it would be inappropriate for the Court to state, as proposed by the Public Water Suppliers, a single annual yield from use of State Water Project ("SWP") water in the basin. (See [Proposed] Statement of Decision Re Phase III Trial, p. 8:12-19.) Such a statement would be inappropriate in light of the significant amount of uncertainty associated with the amount of available SWP water. In its September 27, 2010 Summary: Final State Water Project Delivery Reliability Report, 2009 ("2009 SWP Report Summary"), the California Department of Water Resources ("DWR") stated:

The report discusses areas of significant uncertainty to SWP delivery reliability:

- restrictions on SWP and CVP [Central Valley Project] operations due to State and federal biological opinions to protect endangered fish such as delta smelt and spring-run salmon;
- climate change and sea level rise; and
- the vulnerability of Delta levees to failure due to floods and earthquakes.

(2009 SWP Report Summary, p. 1 (emphasis added) (filed herewith as Exhibit A to Copa de Oro's Request for Judicial Notice)(available on the World Wide Web at http://baydeltaoffice.water.ca.gov/swpreliability/).)¹

The 2009 SWP Report Summary also states:

The 2009 report shows greater reductions in water deliveries on average when compared to the 2007 report. The 2007 report incorporates the interim operation rules established by Judge Wanger in the federal court in 2007. It shows very significant reductions in SWP deliveries when compared to the 2005 report, which assumes operation rules that were less restrictive.

(2009 SWP Report Summary, p. 2.)

In light of these significant uncertainties in the SWP's operation, it would be inappropriate for the Court to, as proposed by the Public Water Suppliers, declare:

Supplemental safe yield is the amount of imported water (i.e., State Water Project water) that recharges the Basin, plus the return flows from such water after it is pumped and re-applied to municipal and industrial or agricultural use.

¹DWR's full 2009 SWP reliability report is also available at that location.

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. . The Court finds that the supplemental safe yield of the Basin is 28,000 acre feet annually, based on estimated return flow percentages of 28.1% for municipal and industrial use, and 25% for agricultural use. ([Proposed] Statement of Decision Re Phase III Trial, p. 8:12-17 (emphasis added).) The world in which the SWP operates is simply not as certain as these statements suggest. The Court appropriately did not seek to quantify the portion of the basin's safe yield attributable to recharge from SWP deliveries in its May 4, 2011 Tentative Decision Phase Three Trial and it should decline the Public Water Suppliers' invitation to do so now. Respectfully submitted, Dated: June 21, 2011 BARTKIEWICZ, KRONICK & SHANAHAN A Professional Corporation Ryan S. Bezerra Attorneys for Copa de Oro Land Company

PROOF OF SERVICE

I, Terry M. Olson, declare as follows:

I am a citizen of the United States and a resident of Sacramento County. I am over the age of 18, not a party to this action and am employed at Bartkiewicz, Kronick & Shanahan, 1011 Twenty-Second Street, Sacramento, California 95816. On June 21, 2011, I served, in the manner described below, the following documents:

COPA DE ORO LAND COMPANY'S OBJECTION TO PROPOSED STATEMENT OF DECISION

I posted these documents to the Court's World Wide Website located at www.scefiling.org.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Sacramento, California on June 21, 2011.

Jury M. Olson