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20 Attorneys for Landowner Group Parties (LOG)

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **COUNTY OF SANTA CLARA**

23 SANTA MARIA VALLEY WATER)
24 CONSERVATION DISTRICT)

25 Plaintiff,)

26 vs.)

27 CITY OF SANTA MARIA, et al.,)

28 Defendants)

29 _____)
30 AND RELATED CROSS-ACTIONS)
31 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

**LOG Motion To Exclude Evidence
Concerning Settlement Stipulation**

Date: February 27, 2006

Time: 9:00 AM

1 **Summary: Court Should Not Hear Evidence Regarding The Stipulation In Phase 4**

2 LOG has repeatedly insisted that, without an application for injunctive relief before it, the
3 Court cannot consider the imposition of a physical solution on the LOG parties. On the
4 other hand, the Purveyor Parties have repeatedly suggested that the imposition of a
5 stipulation by the Court on LOG would be part of the Phase 4 proceeding. The
6 Purveyor Parties have now reversed their position in pleadings. Evidence showing the
7 workings and future effects of the settlement stipulation and evidence of future basin
8 conditions is properly excluded from Phase 4.

9 **Purveyors Argued For Considering The Stipulation As Part Of Phase 4** At the
10 Case Management Conference of September 27, 2005, the Public Water Purveyors
11 asked to the Court to include in Phase 4 the question of whether or not the settlement
12 stipulation should be imposed on the LOG parties. Despite the Court's ruling on the
13 scope of the Phase 4 trial, the Purveyor Parties continued to assert their intention to
14 make future management of the supply a part of their case in Phase 4. The following
15 examples are taken from the Public Purveyors Expert Witness Declarations filed
16 January 6, 2006:

17 "Professor William Blomquist will provide his expert opinion as to approaches to
18 groundwater management that have proven to be the most effective".

19 Mr. Bill Dendy "will testifywith respect to the impact of any physical solution,
20 future conditions in the basin and the adequacies of present facilities to meet
21 future needs and the stipulation's 'management areas'."

22 Mr Joel Kimmelshue "will testify on agricultural water use given
23 reasonably anticipated demographic changes"

24 Mr. Terry Foreman will testify to "the potential impacts of the water balance
25 within each of the three management areas given reasonable expected
26 demographic changes within the Basin"

27 Mr. Robert Beeby "will testify with respect to the Court approved
28 management areas"

LOG Argued That No Physical Solution Could Be Considered Absent An

Application For Injunction LOG has consistently argued that without an application

1 for injunctive relief pursuant to the procedures required under Cal. Code of Civ.Proc.
2 §525 *et seq.* the Court lacked power to consider the imposition on LOG of the
3 stipulation or of any physical solution. A due process concern exists. LOG would be
4 placed in the position of having to cross-examine purveyor expert witnesses without
5 knowing the precise terms of the physical solution to be imposed. LOG would be
6 unable to meaningfully confront or rebut the adverse witnesses.

7
8 **Purveyors Concede That Phase 4 Does Not Include Consideration of The**
9 **Stipulation** In a pleading filed on February 10 the Public Purveyors conceded that the
10 stipulation will play no part in Phase 4.

11 “a later phase of these proceedings will determine whether these parcels of real
12 property will be made subject to the terms of the Settlement Stipulation”.
13 Purveyors’ Opposition to LOG Motion *in Limine* To Confirm Burden of Proof of
14 Rival Claims 3:14-15

15 Having conceded that imposition of the stipulation by injunction is not before the Court
16 in Phase 4, the Public Purveyors should not be permitted to offer evidence of the future
17 operation of the stipulation or future conditions of the supply in Phase 4.

18 Respectfully submitted,

19 February 17, 2006

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22 E. Stewart Johnston
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

SANTA MARIA VALLEY WATER
CONSERVATION DISTRICT

Plaintiff,
vs.

CITY OF SANTA MARIA, et al.,

Defendants

AND RELATED CROSS-ACTIONS
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) **Assigned For All Purposes To Judge Komar**

[Proposed] Order

Having heard from the parties on the matter, the Court orders that no party can offer evidence in Phase 4 on the following topics:

- Future conditions of the water supply or the water demand.
- Present and future adequacy of the physical facilities related to the water supply.
- The conduct of the parties to the stipulation in carrying its terms.
- The effects of the stipulation.
- The implementation of the stipulation.
- Conditions in the 'management areas' created by the stipulation.

February _____, 2006

Hon. Jack Komar, Judge

1 for injunctive relief pursuant to the procedures required under Cal. Code of Civ.Proc.
2 §525 *et seq.* the Court lacked power to consider the imposition on LOG of the
3 stipulation or of any physical solution. A due process concern exists. LOG would be
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Purveyors Concede That Phase 4 Does Not Include Consideration of The

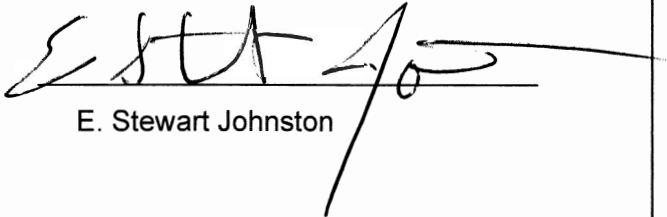
Stipulation In a pleading filed on February 10 the Public Purveyors conceded that the stipulation will play no part in Phase 4.

“a later phase of these proceedings will determine whether these parcels of real property will be made subject to the terms of the Settlement Stipulation”.
Purveyors’ Opposition to LOG Motion *in Limine* To Confirm Burden of Proof of Rival Claims 3:14-15

Having conceded that imposition of the stipulation by injunction is not before the Court in Phase 4, the Public Purveyors should not be permitted to offer evidence of the future operation of the stipulation or future conditions of the supply in Phase 4.

Respectfully submitted,

February 17, 2006



E. Stewart Johnston