

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of California-American Water Company (U 210 W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.

A.12-04-019
(Filed April 23, 2012)

**MARINA COAST WATER DISTRICT'S
NOTICE OF RELEVANT COURT DECISION AND
REQUEST FOR OFFICIAL NOTICE**

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Date: August 30, 2013

Marina Coast Water District (“MCWD”) hereby provides the Commission and the Parties notice of the issuance of a court decision relevant to these proceedings, in the interest of ensuring the completeness of the Commission’s record in the public interest. Pursuant to Rule 13.9 of the Commission’s Rules of Practice and Procedure, MCWD requests the Commission to take official notice that the relevant decision has been rendered and that it reverses the judgment in the underlying suit and requires the suit be dismissed.

On August 26, 2013, the California Court of Appeal, Sixth Appellate District, issued its opinion in Case No. H038550, *Ag Land Trust v. Marina Coast Water District*, reversing the judgment of the Monterey County Superior Court in Case No. M105019, and ordering the lawsuit dismissed on grounds of mootness. MCWD had consistently taken the position that the lawsuit was an impermissible collateral attack on the Commission’s CEQA determinations in A.04-09-019 and other proceedings and that the Superior Court had no jurisdiction to “review, reverse, correct, or annul” those determinations. (*See* Pub. Util. Code, § 1759, subd. (a)). Both in the Superior Court and the Court of Appeal, the Commission supported MCWD’s jurisdictional argument with *amicus curiae* filings.

The reversal of the Superior Court judgment and dismissal of the case on mootness grounds now eliminates any possible inference that the Superior Court’s decision stands as an impediment to or correction of the Commission’s environmental impact report (“EIR”) and environmental findings in A.04-09-019 and related proceedings. The reversal and dismissal of Ag Land Trust’s Superior Court suit has rendered the Superior Court’s judgment a nullity.

The Court of Appeal decision is particularly relevant to this proceeding because the Commission, in its Notice of Preparation (“NOP”) of an EIR for this proceeding, indicated

that its Subsequent EIR would be relying in part on its previous EIR for the Regional Desalination Project. (October 2012 NOP, pp. 2-3.)

A copy of the decision of the Court of Appeal is attached hereto as Attachment A.

DATED: August 30, 2013

Respectfully submitted,

FRIEDMAN & SPRINGWATER LLP

By: /s/ Mark Fogelman

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