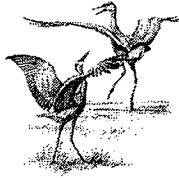


EXHIBIT 15-G

CALIFORNIA ENVIRONMENTAL LAW PROJECT
A Non-Profit Legal Corporation



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RECEIVED

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MPWMD

February 5, 2009

Ralph Rubio, Chairman
Seaside Groundwater Basin Watermaster
2600 Garden Road, Suite 228
Monterey, CA 93940-0810

Re: Water Connection Permit – Security National Guarantee (Watermaster Letter of September 19, 2008)

Dear Mr. Rubio:

By letter dated September 19, 2008, you advised Mr. Ed Ghandoor, Security National Guaranty, Inc. that under the Basin Adjudication Decision, “SNG’s Alternative Production Allocation gives it the right to produce up to 149 acre-feet of water on an annual basis from the Seaside Groundwater Basin for beneficial use on the SNG property.” You further advised that with respect to water used off-site, SNG “has the right to convert some or all of its Alternative Production Allocation to a “Standard Production Allocation...”

The SNG application referred to in your letter proposed that Cal-Am would pump groundwater from its Peralta wells and convey it through the Cal-Am distribution system for use on SNG’s property. SNG proposed that this pumped water be treated as production from its Alternative Production Allocation, as set forth in the Adjudication Decision (California American v. City of Seaside, No. M66343).

For the reasons stated below, Sierra Club believes that to the extent your letter endorsed such an arrangement (“SNG’s approach as described above is consistent with the terms of the Basin Adjudication Decision”), that endorsement is legally incorrect. Sierra Club requests that you reconsider this Opinion, or in the alternative, refer it to Judge Randall for interpretation.

The Adjudication Decision creates two classes of rights in the Basin – the Standard Production Allocation and the Alternative Production Allocation. The Standard Production Allocation generally includes producers with appropriative rights. The Alternative Production Allocation encompasses producers with overlying rights (“Accordingly, the Court find that the parties collectively possess a variety of rights based in prescription and other original rights (including overlying and appropriative rights).”) (Decision at 9, emphasis added) In III B1, the Court, referencing “groundwater rights” states:

“Parties have accrued mutual prescriptive rights and/or have preserved their overlying appropriative, and prescriptive rights...These individual and competitive rights, whether mutually prescriptive, appropriative, or overlying rights can be most efficiently exercised and satisfied by the implementation of this physical solution.”

In III B3, p.19, the Court characterizes SNG’s right as an “overlying Groundwater right” and recites that SNG “has chosen to participate in an Alternative Production Allocation.” In III B3(a), id., the Court ruled that “the Alternative Production Allocation may not be transferred for use on any other property, but shall be limited to use on the respective properties...”

If the Watermaster intended in his September 19, 2008 letter to approve SNG’s plan to contract with Cal-Am to pump Peralta well water to be conveyed through the Cal-Am distribution system for use on the SNG site, the Watermaster in effect authorized an unlawful use of SNG’s overlying right that is not contemplated under the Decision and that is inconsistent with California law pertaining to overlying water rights. The overlying right constitutes an appurtenant right to take water from the ground and use it on the overlying property. It is unlawful to sever the appurtenant pumping right from the right of use. The overlying land-owner cannot lawfully “convey” its groundwater pumping right to a third party, who is to pump water not appurtenant to the overlying land.

In City of Barstow v Mohave Water Agency, 23 Cal.4th, 1224 (2000), the Supreme Court characterized an overlying right as “the owner’s right to take water from the ground underneath for use on his land within the basin or watershed; it is based on ownership of the land and is appurtenant.” 23 Cal 4th at 1231. (emphasis added) The Court cited California Water Service Co. v. Edw. Sidebotham and Sons, 224 Cal.App. 2d, 715-725. (1964) in support of its statement. The Court described the overlying rights of appellants as “the right to pump water from the ground underneath their respective lands for use on their lands.”

In Hutchins, Water Rights Laws In Nineteen Western States, it is stated:

“The right to use percolated water, as well as the corpus of the water itself, is real property.” In Pasadena v. Alhambra, 33 Cal.2d 908, 925 (1949) the California Supreme Court stated that the overlying “right,” or right of the owner of the land, “to take water from the ground underneath for use of his underlying land is based on ownership of the land and is appurtenant thereto.” (Hutchins, Vol.II, 67). (emphasis added)

In Burr v. Maclay Rancho Water Co., 154 Cal.428, 439 (1908) the Supreme Court adjudicated the right of the plaintiff as the owner of certain lands to take waters from the underlying supply for use on such lands and declared “that such right is parcel of said lands.” In Pasadena v. Alhambra, 33 Cal.2nd 908, 925 (1949) the Court stated that the overlying right to take water from the ground underneath for use on overlying land “is based on ownership of the land and is appurtenant thereto.” See Hutchins, The California Law of Water Rights, at 428.

An appurtenant water right is one that is incidental to the use of land when it is by right used with the land for its benefit. Civil Code §662 recites: "A thing is deemed to be incidental or appurtenant to land when it is by right used with the land for its benefit..." Civil Code §658 defines real property. "Real or immovable property consists of (1) land; (2) that which is affixed to land, (3) that which is incidental or appurtenant to land." *Id.* Black's Law Dictionary defines appurtenant as "belonging to; accessory or incident o; adjunct, appended or annexed to." Black's Law Dictionary, Third Edition.

Nothing in the Court's Decision contemplates such severance of an appurtenant pumping right, as SNG has proposed. In effect it has assigned its pumping right to Cal-Am, contemplating increased Cal-Am production from the Peralta Well that will be conveyed through the Cal-Am distribution system to SNG. If the Watermaster allows this precedent to occur, other owners of Alternative Production Allocations under the Seaside Decree could similarly sever the appurtenant pumping right from their property and enjoy and use water conveyed from other parts of the Basin for use on the overlying property.¹

Nothing in the Court's Decision relating to the Alternative Production Allocation indicates that the Court intended to expand the rights of overlying water rights owners by authorizing them to contract with off-site users to pump groundwater for use on their overlying property. Rather, the Court's Decision suggests it had no intention to expand the right, since it ruled that the "Alternative Production Allocation may not be transferred for use on any other property, but shall be limited to use on the respective properties." III B3(a), p. 19. In effect, the Watermaster has endorsed a "use" of the overlying right on other property by apparently endorsing augmented pumping at the Peralta Well and transporting the water produced off-site for ultimate use on SNG's land.

Civil Code §22.2 provides that "the common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this state." Since the Court's decision recognizes overlying rights as the foundation for the Alternative Production Allocation, the Court had an obligation to make clear how, if at all, it was altering or abrogating the common-law rules in the context of a physical solution. It did not do so, and it may not have had the power to do so. See City of Barstow, supra.

Rather, as the Watermaster noted in his letter, if the overlying landowner wished to use water off-site and transfer its production allocation for use by others, it was authorized to do so under the Decision by electing to change all or a portion of its Alternative Production Allocation to the Standard Production Allocation. Decision III B3(e) p. 21. If SNG wishes to contract with Cal-Am to pump water off-site for use on its property it may do so only by electing to produce under the Standard Production Allocation. Under III M2 (p.42), the parties may assign and transfer any portion of their respective Production Allocation for use within the Basin. This would be the exclusive procedure for SNG to follow, as allowed under the Decision, if it wishes to have water purveyed to it from off-site wells.

¹ We note that (including SNG), there are approximately 1400 acre-feet in Alternative Production Allocations under the Seaside Decree.

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Seaside Groundwater Basin Watermaster
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In sanctioning SNG's proposal, the Watermaster has created special benefits to SNG that are clearly not intended under the Decision. First it has improperly "enhanced" SNG's overlying right by allowing it to sever the appurtenant pumping right from its land. Secondly, it has improperly granted SNG immunity from the 10% reduction requirement in production from the Basin that the Court has mandated for Standard Production Allocation pumpers. Had SNG done what the Decision contemplates in connection with the transfer or assignment of rights and elected to become a Standard Production Allocation producer, SNG's 149 acre foot production allocation would be subject to the 10% reduction requirement.

Sierra Club asks for reconsideration of the Watermaster's decision, and/or for submission of this matter to Judge Randall for resolution. The Decision states "full jurisdiction power and authority are retained and reserved by the Court upon application...by the Watermaster for such further or supplemental orders or directions as maybe necessary or appropriate for interpretation, enforcement, or implementation of this Decision."

Sierra Club asks for your prompt reconsideration of your opinion and that you notify the MPWMD of any such reconsideration. The MPWMD is currently considering Cal-Am's application for a water distribution permit.

Sincerely
CALIFORNIA ENVIRONMENTAL LAW PROJECT

Laurens H. Silver
On behalf of Ventana Chapter, Sierra Club

cc: Darby Fuerst, MPWMD
Victoria Whitney
Sheri Damon, Esq.