

HILLSIDE MEMORIAL PARK AND MORTUARY et al., Plaintiffs and Respondents, v.
GOLDEN STATE WATER COMPANY et al., Defendants and Appellants; WATER
REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA et al., Interveners and
Appellants.

S197767

SUPREME COURT OF CALIFORNIA

2011 CA S. Ct. Briefs 97767; 2011 CA S. Ct. Briefs LEXIS 1613

November 7, 2011

APPER A DECISION BY THE COURT OF APPEAL, SECOND APPELLATE
DISTRICT, DIVISION FIVE. CASE NO. B225058. LOS ANGELES SUPERIOR
COURT, CENTRAL DISTICT. JUDGE CONRAD R. ARAGON - CASE NO. C506806.

Petition for Appeal

VIEW OTHER AVAILABLE CONTENT RELATED TO THIS DOCUMENT: CA Supreme Court: Brief(s)

COUNSEL: [*1] ALESHIRE & WYNDER, LLP, David J. Aleshire (State Bar No. 65022), Patricia J. Quilizapa (State Bar No. 233745), Wesley A. Miliband (State Bar No. 241283), Irvine, California, SMITHTRAGER PC, Diane R. Smith (State Bar No. 66967), Laurel E. Adcock (State Bar No. 234201), Irvine, California, Attorneys for Plaintiff, Respondent, and Petitioner, HILLSIDE MEMORIAL PARK AND MORTUARY.

TITLE: *Petition for Review*

TEXT: Hillside Memorial Park and Mortuary ("Hillside") petitions this Court for review of the Court of Appeal's opinion issued for publication in the above-captioned matter (*Hillside Memorial Park and Mortuary, et al v. Golden State Water Company, et al. (2011) 199 Cal.App.4th 658* (the "Opinion")).

I. INTRODUCTION

This case involves jurisdictional and water supply issues essential to the management of California's natural resources. It arises from groundwater adjudications in the West Coast Basin of Southern California, affecting the rights of hundreds of parties and many more non-parties who rely on water pumped from the West Coast Basin and have common law rights to store water in these basins.

In this case, Appellants sought to amend the West Basin [*2] Judgment, under the guise of a narrow continuing jurisdiction provision, to enact a complex and far-reaching storage regime that would do all of the following: (1) raise the water table; (2) award Moving Parties unprecedented water storage rights never contemplated in the underlying West Basin judgment proceedings; (3) add hundreds of parties from the adjacent Central Basin to the West Basin Judgment; (4) strip West Coast Basin water rights holders of the ability to access inexpensive excess water unused by other parties to the West Basin judgment; (5) strip non-parties of their common law right to store water; (6) judicially bestow the Water Replenishment District of Southern California ("WRD") with sweeping new powers beyond WRD's legislatively granted authority; and (7) replace a neutral, state agency, watermaster with a watermaster that has a significant economic interest in the West Coast Basin.

Review of the Appellate Court's decision is necessary to secure uniformity of decisions and to resolve unsettled questions of law regarding the continuing jurisdiction and constitutional authority of courts to adjudicate entirely novel and previously unconsidered storage rights in a post-judgment [*3] proceeding. Specifically, Hillside petitions this Court on the following grounds:

(1) In contravention of *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224 (the "Mojave Decision"), the Court of Appeal's Opinion mistakenly applies Article X, Section 2 of the California Constitution in an overly broad manner that denies rights of individuals and public and private entities n1;

n1 *See also, City of Lodi v. East Bay Municipal Utility* (1936) 7 Cal.2d 316, 339-340 [Requiring a court to "ascertain whether there exists a physical solution of the problem presented that will avoid the waste, and that will at the same time not unreasonably and adversely affect the prior appropriator's vested property right. [emphasis added.]].)

(2) The Opinion necessitates review to secure uniformity of decisions relating to questions of law involving broad questions of jurisdiction and due process because the Opinion defies jurisdictional principles of law and infringes [*4] procedural due process rights of parties and non-parties, despite well-settled law to the contrary as set forth in *Orange County Water District v. City of Colton* (1964) 226 Cal.App.2d 642 ("City of Colton"), *Big Bear Municipal Water District v. Bear Valley Mutual Water Co.* (1989) 207 Cal.App.3d 363, 376-378 ("Big Bear"), *Central and West Basin Replenishment District v. Southern California Water Company* (2003) 109 Cal.App.4th 891 (the "Central Basin Decision") and *Baar v. Smith* (1927) 210 Cal. 87 ("Baar"), that latter of which articulates why continuing jurisdiction must be limited *and* that constitutional due process protections must be preserved; and,

(3) The Opinion necessitates review to secure uniformity of decisions relating to specific questions of water law involving *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199 (the "San Fernando Decision") because the Opinion ignores the *San Fernando* Decision's long-settled, unequivocal holding that: (i) the right to use subsurface space to store imported water in a groundwater basin is a separate and distinct right [*5] from the right to exercise an adjudicated groundwater production (or extraction) right, and, (ii) a court need not intervene on rights relating to storage space absent oversubscription of the space (which Appellants never contended to be the case). In addition, the Opinion necessitates review to settle important questions of water law relating to storage of water as set forth in *Niles Sand and Gravel Co. v. Alameda County District* (1974) 37 Cal.App.3d 924 ("Niles").

This petition is timely and authorized by the California Rules of Court ("Rule") 8.500(e)(1).

II. STATEMENT OF ISSUES PRESENTED FOR REVIEW

The issues presented in this Petition for Review are as follows:

(1) Whether the *Mojave* Decision allows a "continuing jurisdiction" provision, which are commonly formulated in groundwater adjudication judgments, to be applied under Article X, Section 2 of the California Constitution to the detriment of legal rights of individuals or public or private entities?

(2) Whether Article X, Section 2 of the California Constitution may supersede or otherwise trump jurisdictional principles of law and procedural due process rights of individuals or public [*6] or private entities, whether or not parties to the matter?

(3) Whether the Opinion undermines the *San Fernando* Decision, or alternatively, whether potential consequences of *Niles* undermine Article X, Section 2 of the California Constitution, or otherwise compel clarification for uniformity of decisions, due to the Opinion finding that jurisdiction for storage exists despite a Judgment that is historically recognized as relating *only* to *extraction* rights, and the storage space not being oversubscribed, and *Niles* invoking an issue as to what extent the public's rights in water replenishment may burden private water rights?

III. WHY REVIEW SHOULD BE GRANTED

This Court provided two of the most significant water law cases in the last thirty-five years - the *San Fernando* Decision and the *Mojave* Decision - yet the Opinion undermines principles instilled by these landmark Decisions that have been instilled in so many cases since this Court rendered each Decision. Accordingly, this case presents issues necessary to secure uniformity of decision with respect to the application of the *San Fernando* and *Mojave* Decisions and other groundwater [*7] adjudication cases, as well as well-settled law relating to jurisdictional and procedural due process rights. (Rule 8.500(b)(1).) This case also presents issues necessary to address lack of jurisdiction for the Opinion. (Rule 8.500(b)(2).)

A. The Opinion Defies The *Mojave* Decision. Opening The Floodgates In Water Litigation Statewide To Unintended Consequences. Including Those Created By The Opinion.

The Court of Appeal's Opinion conflicts with the *Mojave* Decision in its application of Article X, Section 2 of the California Constitution (the "Constitutional Amendment"), resulting in a broad denial of rights of individuals and entities with respect to groundwater storage.

The issue in *Mojave* was to determine whether a court "may definitively resolve water right priorities in an overdrafted basin with a 'physical solution' that relies on the equitable apportionment doctrine but does not consider the affected owners' legal water rights in the basin." (*City of Barstow v. Mojave Water Agency*, *supra*, 23 Cal.4th at 1233.) Recognizing that a trial court may use its equitable powers to implement a physical solution," these powers are subject to limits. [*8] (*Id* at 1250.) This Court concluded that "a court may neither change priorities among the water rights holders nor eliminate vested rights in applying the solution without first considering them in relation to the reasonable use doctrine." (*Id.*)

It follows then that a court may not affect rights decades later that were *not even addressed in the original adjudication*. However, the Court of Appeal through its Opinion adversely impacts parties' and non-parties' procedural due process rights by finding jurisdiction exists *now* for an amendment to the judgment from over *forty years ago*.

Accordingly, this Court should consider the broad and significant effect of the Opinion's continuing jurisdiction analysis on water storage arrangements. The Opinion's unsupported interpretation of the 1980 Amendment in the West Basin Judgment (discussed more fully, *infra* at Section V) allows parties to defeat common law water storage rights without notice to affected parties through small language changes in a judgment indisputably adjudicating only extraction rights. Under such logic, extraction judgments may later stretch even further to adjudicate the rights to a [*9] surface stream. Thus, this Court's review is necessary.

B. One Provision Of The Constitution May Not Supersede Or Otherwise Trump Other Provisions Of The Constitution Recognizing Long-Standing Principles Of Jurisprudence. Yet The Opinion In Effect Impermissibly

Creates An "Exception" To Constitutional Due Process Protections.

The Opinion necessitates review to secure uniformity of decisions relating to questions of law involving broad questions of jurisdiction and due process because the Opinion defies jurisdictional principles of law and infringes upon procedural due process rights of parties and non-parties, despite well-settled law to the contrary as set forth in *Baar*, *City of Colton*, *Big Bear*, and the *Central Basin* Decision.

The Constitutional Amendment at Article X, Section 2 cannot supersede jurisdictional principles of law and procedural due process rights, for reasons set forth above regarding the *Mojave* Decision, as well as the absence of any known statute or case authority allowing for such.

Instead, existing case authorities as discussed more fully, *infra* at Section V, establish as a matter of law that court jurisdiction - whether or not [*10] under a "continuing jurisdiction" provision - has limitations. Specifically addressing "continuing jurisdiction" provisions, *City of Colton* and *Big Bear* identify those limitations.

Underlying the depth of these authorities is this Court's opinion in *Baar v. Smith (1927) 201 Cal. 87*, wherein the Court thoroughly explains the rationale for requiring a judgment (including those in groundwater adjudications) to be limited to the issues raised in the pleadings. As the California Supreme Court held in *Baar*, that question is not determined solely by the words used in a retention provision; it is determined by the continuing jurisdiction limitations established pursuant to constitutional notice and due process protections and the court's authority under the Constitution.

It is this Supreme Court decision that is the basis of *OCWD v. City of Colton, 226 Cal.App.2d 642* and *Big Bear Municipal Water Dist. v. Bear Valley Mutual Water Co., 207 Cal.App.3d 363*, that the parties have extensively briefed.

In *Baar*, the Court held that even ordering delivery of certificates of shares when all that had been sought was to quiet title [*11] of the shares exceeded the Court's jurisdiction. The Court held that the extraneous ruling was "null and void" and described as an "open challenge to our entire system of procedure" and a disregard for the purpose of pleadings altogether. Thus, the question of the permissible retention of jurisdiction is not a question that must be answered solely within the context of water law, as the Opinion now conveys.

As noted elsewhere, "[t]he reservation of jurisdiction is particularly appropriate when there are prospects that the court may be called on to give consideration to the adjustment of substantial public interests." (Slater, *at sec. 9.10[3]*, p. 9-77 citing to, *City of Pasadena v. City of Alhambra (1949) 33 Cal.2d 908, 937*; *Central and West Basin Replenishment District v. Southern California Water Company, supra*, at p. 902.) However, "[t]he court's judicious retention of continuing jurisdiction should be distinguished from an adjudication of future water rights among the parties to the underlying litigation." (Slater, *at sec. 9.10[3]*, p. 9-77.) "The latter would countenance speculation in water resources and without regard to the competing [*12] needs of other users." (*Id.*)

In addition, "[s]tipulated judgments in ground-water litigation are tantamount to a contract." (Slater, *at sec. 10.02[12]*, pp. W-38.3-.4, fn. 93 and p. 94 citing to, *City of Barstow v. Mojave Water Agency (2000) 23 Cal.4th 1224, 1252* [expressing some skepticism regarding the legal basis but not over-turning provision in the stipulated judgment that provided for free transfer of overlying rights].)

In this matter, despite the Court of Appeal recognizing that the pleadings did not involve storage issues, the Opinion dismisses the foregoing authorities through an extraordinarily brief paragraph to conclude that jurisdiction for storage exists. Notably, the "West Basin Judgment was stipulated and on August 18, 1961, Judge Francis signed the West Basin judgment, which ratified in all particulars the parties' stipulation." (Blomquist, William, *Dividing the Waters, Governing Groundwater in Southern California*, ICS Press (San Francisco) 1992, p. 109.)

Thus, not only is the Opinion contrary to well-settled case law, the Opinion improperly places procedural due process rights second to a "physical solution" provision, particularly [*13] given the contractual nature of the judgment. As such, this Court's review is necessary.

C. The Opinion Ignores the *San Fernando* Decision's Long-standing Directives Regarding Subsurface Storage In California Groundwater Basins, And The Opinion Lends Itself To *Niles* Regarding Unresolved Questions Of Law. Thereby Providing The Court Much-Needed And Rare Opportunity To Address Significant Water Law Issues.

1. Having Guided California Water Law For Over Thirty-Five Years. The San Fernando Decision Rules But Is Now Undermined By The Opinion.

The Opinion ignores the *San Fernando* Decision's long-settled, unequivocal holding that: (i) the right to use subsurface space to store imported water in a groundwater basin is a separate and distinct right from the right to exercise an adjudicated groundwater right n2, and, (ii) a court need not intervene on rights relating to storage space absent oversubscription of the space n3. Notably. Appellants have never contended the West Coast Basin's storage space is oversubscribed.

n2 The *San Fernando Decision*, *supra*, 14 Cal.3d at 280-281.

[*14]

n3 *Ibid.* at 212.

The law of the *San Fernando* Decision conforms to common intuition, by recognizing that a significant distinction exists between *extraction* of water (e.g., pumping water out of the ground) and *storage* of water (e.g., putting water in to the ground). The Opinion, however, in effect creates an exception to this rule by finding that storage is allowed under the West Basin Judgment, indisputably a judgment that has related only to extraction rights.

This Court held in the *San Fernando* Decision that parties have a common law right to use dewatered storage space. They may acquire such rights by importing the water and making use of the space.

Notably, non-parties who would otherwise claim a right to use the dewatered storage space, such as the common-law right recognized by the Supreme Court in the *San Fernando* Decision would not have been put on notice by the extraction rights judgment that their rights would be affected by the original trial and judgment.

Likewise, Appellants (nor any other party) have ever contended that storage space in the West Coast [*15] Basin is oversubscribed; instead, they have argued the opposite by claiming a right to a priority system excluding all non-parties from using the dewatered space, *before* it becomes a problem. Yet the Opinion states that storage is part of the West Basin Judgment despite the *San Fernando* Decision recognizing that the need for determining storage rights lacks when storage space is available.

2. Niles Comes Alive With The Opinion Allowing Storage and "Replenishment" Activities.

The underlying record and Motion to Amend the Judgment sought by Appellants invokes *Niles*, in which an unresolved and significant issue exists as to what extent the public's rights in water replenishment may burden private water rights. The *Niles* Court found that a "public servitude" limited the use of water by all overlying owners within the boundaries of the district and the district was found to be "trustee" for all water users.

"The extent that public rights in water replenishment and conjunctive use projects may be held to burden private water rights remains an issue for further court resolution." (Slater, 11.09[2], p. 11-48.10.)

In addition, the "doctrinal underpinnings [*16] in *Niles* are so confused that the ruling provides little precedent for

the principle that agencies having replenishment powers inherently possess the power to regulate and use the entire subsurface of all real property within their boundaries, without the necessity of paying just compensation, under a public servitude theory." (Trager, Susan M., *Emerging Forums for Groundwater Dispute Resolution in California*, 20 *Pac.L.J.* at p. 69.)

Thus, *Niles* involves groundwater storage issues like those involved with the case at bar, necessitating such questions be answered by the Court; otherwise, this matter will be remanded per the Court of Appeal's Opinion, leaving these unresolved issues in the crosshairs of future litigation.

IV. FACTUAL AND PROCEDURAL HISTORY

A. Factual Background

The West Coast Basin is located in southwestern Los Angeles County, immediately west of the separately adjudicated Central Basin, which is physically separated from the West Coast Basin by a geologic fault line. (Opening Brief at pages 8, 10). The West Basin Judgment, originally entered on August 22, 1961, adjudicated production rights in the West Coast Basin, [*17] gave hundreds of parties transferable, intra-basin extraction rights totaling 64,064.09 acre feet annually and appointed the Department of Water Resources ("DWR") to serve as a neutral watermaster. (Original Judgment, Sections III-IV at Appellants' Appendix No. 43, pages 001559-001580). n4 Since entry of the judgment, there have been very narrow amendments to allow for additional extraction rights. (Original Judgment at 43 AA_001556-001593; Amended Judgments at 70 AA_003740-003844; Operative Judgment, at 1 AA_000001-000094).

n4 References made herein to the underlying record are referred to as volume number AA and page numbers, such as "43 AA_0011559-001580."

Hillside holds adjudicated water rights under the West Basin Judgment and is a consumer of groundwater. Water is essential to Hillside's ability to operate and maintain its business.

Hillside, one of the original parties to the West Basin Judgment, is a non-profit religious organization that operates a cemetery and mortuary serving the Jewish community [*18] in Los Angeles. (Arciniega Decl., PP2, 3 & 8 at 46 AA_001933 to 001935). Hillside's cemetery, by its very nature, is extremely sensitive to environmental and water issues.

Hillside must have an adequate supply of water to maintain the landscape of its cemetery in a manner appropriate for the tranquil remembrance of loved ones. (Arciniega Decl., P8 at 46 AA_001935).

Hillside opposed the Motion to Amend due to its potentially harmful effects on the basin, the water supply and the ability of Hillside to exercise its adjudicated rights. Potential environmental harms from raising the water table, as the proposed amendments would, include flooding, subsidence and mobilization of contaminants. (Johnson Depo. 75:30-76:13 at 46 AA_001792-001793). The proposed amendments also pose immediate economic harm to Hillside and threaten the water supply, as the mere prospect of the proposed amended judgment froze the water market in the West Coast Basin, due to the rampant speculation inherent in treating unused water as a privatized asset. (Arciniega Decl., P4 at 46 AA001934; Beste Decl., P10 at 4 AA_000515). (Arciniega Decl., P4 at 46 AA_001934).

B. Procedural History

The trial court [*19] denied the Motion to Amend on April 9, 2010 failure to comply with the California Environmental Quality Act and refused to address whether continuing jurisdiction existed for the Motion. Appellants, consisting of seven public agencies and one privately-held investor-owned utility, subsequently appealed from the trial

court's denial of their Motion to Amend the West Basin Judgment.

On September 27, 2011, after briefing and oral argument, the Court of Appeal issued the Opinion and certified it for publication. The Opinion reversed the trial court's denial of Appellants' Motion to Amend, and remanded the matter for further hearing.

In the Opinion, the Court of Appeal recognized that the proposed amendment involved utilization of dewatered acreage (i.e., storage space) and that storage was not part of the physical solution in the 1961 judgment. (Opinion, p. 662.) The court held, in pertinent part, that in light of language in a 1980 amendment to the 1961 judgment (the "1980 Amendment"), the trial court did have jurisdiction to consider the motion to amend the judgment. (*Id.*) In other words, the Opinion holds that an amendment *expanded* continuing jurisdiction. The court reversed [*20] the lower court's order and has remanded the matter to the trial court for a full hearing on a physical solution to the water storage issue. (*Id.*)

As is explained below, the Opinion creates inconsistency in the law and exposes unsettled questions related to groundwater storage in previously adjudicated basins. Accordingly, Hillside's Petition for Review should be granted by this Court.

V. ARGUMENT

A. Review Should Be Granted To Secure Uniformity Of Decision With Respect To Questions Of Law Regarding Limitations Of Article X. Section 2 Of The California Constitution As It Relates To Fundamental Principles Of Law.

Rule 8.500(b)(1) provides, in pertinent part, that the Court may order review "when necessary to secure uniformity of decision..." Here, the Court of Appeal's decision is inconsistent with well-settled law regarding procedural due process and jurisdictional requirements, namely by applying an overly expansive scope to the Constitutional Amendment.

Alternatively, the Court should grant review to ensure uniformity of decision, particularly as to the *Mojave* Decision and the *San Fernando* Decision.

*1. Exceeding The Constitutional [*21] Amendment. The Opinion Incorrectly Blends Storage Rights With Extraction Rights To Find Jurisdiction Exists. Which Renders An Internally Inconsistent Interpretation Of The Judgment And Is A Mistake Of Law.*

The Court of Appeal acknowledges in the Opinion, at page 662, that the storage proposed by Appellants "was not part of the physical solution in the 1961 judgment." At page 664 of the Opinion, the Court recognizes that "[t]he West Basin Judgment does not contain provisions relating to storage." Yet, the Opinion irreconcilably interprets the 1980 Amendment as *expanding* the scope of the original Judgment to adjudicate of storage. (Opinion, p. 671.) The Opinion concludes, "**The 1980 judgment adds the power of the trial court to take necessary steps to protect and preserve the West Basin in addition to the rights of the parties as was specified in the 1961 judgment.**" (Opinion, p. 666 [emphasis added].) Such interpretation of the Amendment is an unreasonable leap from what actually took place in 1980.

Specifically, the Court of Appeal reasons that the scope of the Judgment was expanded "beyond the issue of extraction rights by imposing a physical solution [*22] which **regulates carry-over rights, imposes sanctions for overproduction, provides supplemental water which could be placed in an exchange pool, and grants the Watermaster extensive rights to administer and allocate supplemental prices.**" (Opinion, pp. 665-666.)

Each of the amendments addressed existing extraction provisions - they did not *add* new issues to the Judgment, as the Opinion incorrectly concludes.

First, "carry-over rights" are not separate and apart from extraction rights. A carryover provision allows a party who does not use its full adjudicated extraction right in one water year "to carry over from such water year the right to extract from the Basin in the next succeeding water year" the amount which it did not pump in the prior water year. (1 AA_000055; see also, the *Central Basin Decision, supra, 109 Cal.App.4th at 911.*) This contrasts with storage rights, which are acquired by adding new water to a basin. Carryover of extraction rights merely provides flexibility in the timing of a pumper's extraction and has nothing to do with storage rights. (*Id.*; see also, the *Central Basin Decision, supra, 109 Cal.App.4th at 910-911* [*23] [The Court held that "the Judgment does not grant parties to an extraction judgment a right to storage rights based on linkage of storage and extraction rights - because no such linkage in rights exists, or based on carryover provisions in the judgment."])

Indeed, the carryover provision does not grant ownership over the unpumped water. "The right to water is usufructuary," which means that "water rights holders have the right to 'take and use water,' but they do not own the water." (*Central Basin Decision, supra, 109 Cal.App.4th at 905*, citing *State of California v. Superior Court (2000) 78 Cal.App.4th 1019, 1022-1026.*) Thus, the carryover provision means a party may delay in exercising its right to extract water, but only as specifically allowed by the Judgment.

Second, "sanctions for overproduction" relate directly to controlling the level of extraction in the Basin. The Court of Appeal provides no explanation in the Opinion for its conclusion that safeguards implemented to prevent overproduction (i.e., over extraction) of water "goes beyond the issue of extraction rights." (Opinion, pp. 665-666.)

Third, that the Judgment allows for "supplemental [*24] water [to] be placed in an exchange pool" is a factual misstatement. (Opinion, p. 666; 1 AA_000057-63.) The Exchange Pool Provisions require that a party who has access to more water than its "estimated total required use of water," from sources *outside* of the Basin, must make a specified amount of its "Adjudicated Right" available to the Exchange Pool. (1 AA_000057.) The Exchange Pool is a mandatory exchange of extraction rights between those who have more water than they need and those who do not. The Exchange Pool *simply* provides for unexercised extraction rights to be "placed in the exchange pool" for others to use. It is not a provision that allows for storage of imported water, as misstated in the Opinion. (See the *Central Basin Decision, supra, 109 Cal.App.4th at 910-911* [The Court held that "the Judgment does not grant parties to an extraction judgment a right to storage rights based on linkage of storage and extraction rights - because no such linkage in rights exists, or based on carryover provisions in the judgment."])

Lastly, the Watermaster does not "administer and allocate supplemental pricing" under the 1980 Amendment, as stated in [*25] the Opinion. (Opinion, p. 666.) Rather, the Watermaster has the ability to administer and allocate the pricing of the exchanged adjudicated rights. which are released into the Exchange Pool pursuant to the applicable provisions.

Notably, the provisions providing for carryover of extraction rights, sanctions for over extraction, and the Exchange Pool, were all present in the original Judgment, and were merely *modified* by the 1980 Amendment. (6 AA_581-1582.) Thus, the Court of Appeal's reasoning that "[t]he West Basin Judgment does not contain provisions relating to storage" (Opinion, p. 664), but the 1980 Amendment added provisions that go "beyond the issue of extraction rights" (Opposition at pp. 665-666) is not supported by the facts, nor could it have been permitted as a matter of law.

The Opinion's sole justification for expanding continuing jurisdiction in this case is the misunderstanding of the 1980 Amendment which results in a misstatement of facts. Nothing in the record supports such a broad interpretation of an amendment to a judgment nearly twenty years after the trial and entry of the original judgment. Indeed, such a broad interpretation of the amendment is [*26] also a mistake of law as courts have established that glaringly similar provisions in another extraction judgment do not extend the scope of that judgment to issues of storage. (The *Central Basin Decision, supra, 109 Cal.App.4th at 910-912*; see also *City of Cohort, supra, 226 Cal.App.2d at 648-649*; and see *Big Bear, supra, 207 Cal.App.3d at 376-378.*)

An extraction right is separate and distinct from a storage right, courts should not be permitted to so casually divest

common law storage rights without notice to affected parties by assigning those storage rights to parties with adjudicated extraction rights, at the detriment of other storage rights holders who were not properly put on notice that their rights would be divested without any opportunity to object. (See *San Fernando Decision, supra*, 14 Cal.3d at 212, 280-281.) This effect, in and of itself, violates the *Mojave Decision* as set forth, *supra* at Section III.A. In addition, parties' and non-parties' procedural due process rights must be given consideration, which the Court of Appeal did not do.

2. It Is Not The Language Of Retention [*27] Of Jurisdiction In A Judgment That Solely Determines Continuing Jurisdiction. But Also Due Process Considerations That Define The Permissible Scope Of Retention Of Continuing Jurisdiction.

Subject matter jurisdiction is the "power to hear or determine the case." (Witkin, Cal. Proc. (5th ed. 2008) Jurisdiction, § 11; see also *Abelleira v. District Court of App., Third Dist. (1941)* 17 Cal.2d 280, 288.) It is essential for the validity of any proceeding, order, or judgment, and therefore, it cannot be waived, nor can parties to a controversy confer it upon a court. (*Summers v. Superior Court (1959)* 53 Cal.2d 295, 298.) Subject matter comes from a justiciable controversy requiring that the court exercise its discretion to declare rights; otherwise, a court would be issuing an advisory opinion. (*Southern California Edison Co. v. State Farm Mut. Auto Ins. Co. (1969)* 271 Cal.App.2d 744.)

"The general rule is that once a judgment has been entered, the trial court loses its unrestricted power to change that judgment. The court does retain power to correct clerical errors However, it may not amend such a judgment to substantially [*28] modify it or materially alter the rights of the parties under its authority to correct clerical error." (*Craven v. Croud (1985)* 163 Cal.App.3d 779, 782, citing *In re Calendario (1970)* 3 Cal.3d 702, 705.) Thus, retention of jurisdiction to modify judgments is a rare exception to well-established rules regarding finality of judgments, and it is permissible only when it operates within the bounds of fundamental concepts of due process and our system of civil procedure. n5

n5 The rare exception has been applied to groundwater rights adjudications, but courts have enforced compliance with the fundamental due process protections that are woven into continuing jurisdiction cases. Such was the case in the two groundwater rights adjudications in *City of Colton, supra*, and *Big Bear, supra*.

As Witkin notes, a court may retain jurisdiction in a judgment "in order to effectuate the decree and to alter its procedural provisions but may not modify [*29] a judgment outside the issues raised in the pleadings or pretrial proceedings." (7 Witkin, Cal. Proc. (5th ed. 2008) Judgment, § 80, [emphasis added]; *Baar v. Smith (1927)* 201 Cal. 87, 101; see also *OCWD, supra*, 226 Cal.App.2d at 648-649, [modification of a judgment going beyond the issues raised in the original proceedings would be "extrajudicial and invalid"] (emphasis added).) Accordingly, no matter how "broad" the language of the jurisdictional provision, the only logical and permissible interpretation of that language is that, consistent with due process limitations, a trial court intends to retain jurisdiction only over matters originally within its jurisdiction. (*City of Colton, supra*, 226 Cal.App.2d at pp.648-649; see also *Big Bear, supra*, 207 Cal.App.3d 363, 376-378 [a water rights judgment may not be modified beyond its original scope].)

Indeed, in *City of Colton*, the court acknowledged that the retention of continuing jurisdiction expressly provided for "amplification" of issues at a later date. The court, however, rejected the proposed "amplification" of the judgment. The court specifically [*30] stated that it is not "proper to deal with rights not at issue upon trial." (*Id.* at p.649.) It reasoned that "[a] judgment outside the issues is not a mere irregularity; it is extrajudicial and invalid." (*Ibid.* [emphasis added]) Therefore, the court held "the trial court was without jurisdiction to grant [the motion]." (*Id.* at p.650 [emphasis added].) n6

n6 Notably, the court also determined that a few references in the judgment to prescriptive water rights was not enough to retain jurisdiction over such rights in the future. (*Id.* at p.646.)

The *City of Cohort* holding did not establish a new rule with limited applicability. Rather, the *City of Cohort* rule stems from basic and essential due process protections and jurisdictional limitations that cannot be ignored. (*Code Civ. Proc.*, § 580 [a court's jurisdiction is limited to what the parties put before that Court]; see also discussion, *supra*, pp. 17-18.) Indeed, this Court has recognized that "[s]o much of a judgment [*31] that exceeds the issues . . . tried or involved, is *coram non jure* and void." (*Baar, supra*, 201 Cal. at p.99.) The Court of Appeal contends otherwise.

The Opinion accepts the limitations of continuing jurisdiction over a decades-old judgment, as set forth in *City of Cohort* and *Big Bear*. The Opinion, however, distinguishes the *City of Cohort* and *Big Bear* cases based *solely* on an erroneous and wholly unsupported interpretation of the 1980 Amendment. Furthermore, the Opinion's interpretation of the 1980 Amendment contradicts the holdings in *City of Cohort* and *Big Bear*, which the Court of Appeal recognizes as valid holdings which limit continuing jurisdiction. As such, uniformity of decision necessitates this Court's review.

3. The Rule Against Adjudication Of Future Rights Is Applicable To Allocation Of Storage Space.

The Court of Appeal misinterpreted and misapplied the *Central Basin* Decision in reasoning that the rule against adjudication of future water rights is inapplicable to allocations of storage space. (Opinion, p. 672.) In the *Central Basin* Decision, the court reasoned that "[t]he retention of jurisdiction [*32] here [referring to retention of jurisdiction as proposed by respondents there] does not contravene the well-established rule that a court cannot adjudicate future water rights." (the *Central Basin Decision, supra*, 109 Cal.App.4th at p.904, citing *City of Pasadena v. City of Alhambra* ["*Pasadena*"] (1949) 33 Cal.2d 908, 937, and *City of Colton, supra*, 226 Cal.App.2d at 648-649.)

The *Central Basin* court found that the rule against adjudication of future water rights was inapplicable to the specific proposed amendments in that case, because the proposed "allocation of storage space requires 'no declaration as to future rights in water [or storage space] to which a party has no present right.'" (*Id.* [emphasis added.] In other words, the parties there did not frame their proposal as one to *add* new rights not contemplated in the original judgment. Rather, the parties argued that the proposed storage rights were already contained within the original judgment and concomitant thereto.

Thus, the *Central Basin* Decision did not hold that the rule against adjudication of future water rights does not apply to *all* [*33] proposals allocating storage space, as the Opinion reasons. (Opinion, p. 672.) Instead, the *Central Basin* Court applied the rule and concluded that the specific proposal therein did not *contravene* the rule. (The *Central Basin Decision, supra*, 109 Cal.App.4th at 904.)

4. Despite The Right To Due Process. No Party To The West Basin Judgment (Nor Were Any Non-Parties) Provided Notice And Opportunity Regarding Inclusion Of Storage In The Judgment: Instead. The Court Of Appeal Retroactively Found Storage Is Part Of The Judgment

No party to this appeal was provided the opportunity to offer supplemental briefing on whether the 1980 Amendment - including the words, "...of the Basin..." - can support a conclusion that storage is included within the West Basin Judgment following the 1980 Amendment. The failure to properly address the 1980 Amendment, or continuing jurisdiction in general stems from the refusal by the trial court to entertain the issue. In this case, the circumstances are even more compelling due to the lack of briefing and argument and opportunity on the Court's specific reasoning that inclusion of the phrase, "...of the Basin... [*34] ," in the 1980 Amendment includes the subject matter of Appellants' proposed amendment. The trial court's order, and similarly this Court of Appeal's Opinion, is primarily based upon the applicability of CEQA.

The 1980 Amendment is the bridge used by the Court of Appeal to connect the West Basin Judgment to Appellants'

proposed amendment, which is to say the 1980 Amendment serves as the basis for the Opinion. At page 667 of the Opinion, reasoning that inclusion of the three words, "...of the Basin..." in "...Paragraph XV of the 1980 judgment material[ly] expands" the equitable power of the trial court, the Court of Appeal concluded that jurisdiction for Appellants' proposed storage amendment exists.

Although jurisdiction is never waived, after the 1980 Amendment surfaced with such force through the Opinion, Hillside requested through its Petition for Rehearing and pursuant to *Government Code section 68081* to provide supplemental briefing or rehearing regarding the same. The Court of Appeal denied the petition and the request.

In doing so and by way of its Opinion, the Court of Appeal defies the *Mojave* Decision's mandate prohibiting rights from being trumped or superseded by [*35] a "physical solution" arising from the Constitutional Amendment. In addition, the Opinion dismisses well-settled law relating to jurisdiction and due process rights. Accordingly, these errors and the resulting inconsistencies created by the Opinion with published appellate and Supreme Court cases compel review of the Opinion.

B. Review Should Be Granted Because The Court Of Appeal Lacked Jurisdiction. Yet The Court Of Appeal - While Recognizing The Well-Established Limitations Of Continuing Jurisdiction - Mistakenly Creates An Unfounded Exception To The Law.

The Court of Appeal lacked jurisdiction to hear Appellants' appeal regarding denial of their Motion to Amend.

Hillside hereby incorporates by reference Section V.A.2, *supra*. In addition, in just one paragraph at page 672 of the Opinion, the Court of Appeal erroneously concludes that the "broad language before us" (referring to the 1980 Amendment) materially distinguishes this case from *City of Colton* and *Big Bear*. The Opinion fails to embrace this case is exactly what *City of Colton* and *Big Bear* were designed to protect against.

The Court of Appeal acknowledged in the Opinion that in *City of* [*36] *Colton*, continuing jurisdiction pursuant to a judgment on groundwater extraction rights in the Orange County groundwater basin did not extend to adjudication of new groundwater extraction rights in the same basin, because the new proposed rights had been acquired by prescription. (*City of Colton, supra, 226 Cal.App.2d at 648-649.*) In other words, even though the subject matter of the original adjudication in the *City of Colton* case and the proposed amendment both involved extraction rights, the Court scrupulously guarded the scope of the continuing jurisdiction simply because the newly-proposed rights had been acquired in a different manner. (*Id.*) By comparison, the *expansion* of continuing jurisdiction proposed by Appellants and erroneously granted by the Court of Appeal is far greater than the *expansion* that was rejected in *City of Colton*.

The only stated basis for accepting the *expansion* of jurisdiction here is the Court of Appeal's interpretation of the 1980 Amendment as one that "expanded the trial court's jurisdiction to reach the issues in the proposed amendment." (Opinion at p. 672.) However, the Court of Appeal's reasoning is inconsistent [*37] throughout the Opinion. If the trial court, under *City of Colton*, could not have retained jurisdiction to address at a later time issues "not contemplated in the original judgment" (*id*), the trial court here could not have expanded the original judgment in 1980 to cover storage or comprehensive management of the Basin. The Court of Appeal already acknowledges throughout the Opinion that the original judgment did not contain the storage issues proposed by Appellants. There is no basis, then, for a trial court to have had jurisdiction in 1980 to *expand* the Judgment twenty years later beyond what was adjudicated in 1961. Nor is there any basis to do so *now*.

Notably, even if the 1980 Amendment added "broad" language purporting to create jurisdiction beyond the continuing jurisdiction that was retained in 1961, the "broad" language would not change the limitations set by law. In *City of Cotton*, the jurisdictional provision expressly provided for "amplification" of the issues post-judgment. (*City of Colton, supra, 226 Cal.App.2d at p.644.*) Still, the court rejected the proposed "amplification." (*Id. at 646-647.*)

The Opinion incorrectly [*38] treats the "continuing jurisdiction" of the West Basin Judgment as elastic. If taken to its next logical step in water law, this elasticity could conceivably extend to jurisdiction over surface diversion rights;

despite the fact that is not legally part of the judgment nor was it intended by the parties.

The important limitation reiterated in *City of Cohort* derives from protection of due process, which Hillside addresses in detail, *infra*, at V.A. As in *City of Colton*, appropriately limited continuing jurisdiction should be found here to protect against infringement of procedural due process rights and non-parties' common law rights to store water in the West Coast Basin.

VI. CONCLUSION

Based on the foregoing reasons, Hillside respectfully requests that this Court grant review of the published Court of Appeal's Opinion to secure uniformity of decisions, and to settle important questions of law regarding limitations of Article X, Section 2 of the California Constitution as it relates to principles of law involving jurisdiction, due process, and rights to store water in California groundwater basins.

Dated: November 4, 2011

Respectfully submitted, [*39]

ALESHIRE & WYNDER LLP
David J. Aleshire
Patricia J. Quilizapa
Wesley A. Miliband

By: /s/ [Signature]
Wesley A. Miliband
*Attorneys for Plaintiff, Respondent, and
Petitioner Hillside Memorial Park and
Mortuary*

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to *Rule 8.504(d)(1) of the California Rules of Court*, the enclosed Petition for Review was produced on a computer and contains 6,812 words, including footnotes, as counted by the Microsoft Word 2003 word-processing program used to generate the above brief, which is less than the 8,400 word limit.

/s/ [Signature]
Wesley A. Miliband

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18881 Von Karman Avenue, Suite 1700, Irvine, CA 92612.

On November 4, 2011, I served the within document(s) described as:

PETITION FOR REVIEW

on the interested parties in this action as stated on the attached mailing list.

[X] (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. [*40] I placed each such envelope for collection and mailing following ordinary business practices. I am readily

familiar with this Firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] (BY OVERNIGHT DELIVERY) *As Indicated On The Service List ONLY* - I deposited in a box or other facility regularly maintained by Norco Overnite (formly known as Overnight Express), an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in a sealed envelope or package designated by the express service carrier, addressed as set forth above, with fees for overnight delivery paid or provided for.

Executed on November 4, 2011, at Irvine, California.

I declare under [*41] penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Linda Yarvis
(Type or print name)

/s/ [Signature]
(Signature)

SERVICE LIST

Scott S. Slater
Stephanie Osier Hastings
Russell M. McGlothlin
Brownstein Hyatt Farber Schreck, LLP
21 East Carrillo St.
Santa Barbara, CA 93101

Attorneys for Defendant and Appellant Golden State Water Company

(Via Overnight Delivery)

Carmen A. Trutanich, City Attorney
Richard M. Brown
Julie C. Riley
Deputy City Attorney
111 North Hope St., Ste 340
P.O. Box 51111
Los Angeles, CA 90051-0100

Attorneys for Defendant and Appellant City Of Los Angeles

John L. Fellows, III, City Attorney
Patrick Q. Sullivan,
Deputy City Attorney
City Attorney's Office

3031 Torrance Boulevard
Torrance, CA 90503-5059

Attorneys for Defendant and Appellant City Of Torrance

Cal P. Saunders, City Attorney
City Attorney's Office
City of Inglewood
One Manchester Boulevard
Inglewood, CA 90301

Attorneys for Defendant and Appellant City of Inglewood

Francisco Leal
Leal-Trejo, LLP
707 Wilshire Blvd., Suite 3700
Los Angeles, CA 90017

Attorneys [*42] for Attorneys for Defendant and Appellant Water Replenishment District Of Southern California

Robert V. Wadden, Jr.,
City Attorney
City of Manhattan Beach
City Attorney's Office
1400 Highland Avenue
Manhattan Beach, CA 90266

Attorneys for Defendant and Appellant City of Manhattan Beach

Edward J. Casey
Tammy L. Jones
Alston & Bird
333 South Hope St., 16th Fl.
Los Angeles, CA 90071

Attorneys for Defendant and Appellant Water Replenishment District Of Southern California

William F. Kruse, Esq.
Thomas S. Bunn, III, Esq.
T. Nina Tarnay, Esq.
Lagerlof, Senecal, Bradley,
Gosney & Kruse
301 North Lake Avenue, 10th Fl.
Pasadena, CA 91101-4108

Attorneys for Defendant and Appellant City of Long Beach

Laurel E. Adcock
Smith Tracer LLP
2192 Martin, Suite 270

Irvine, CA 92612

Attorneys for Hillside Memorial Park and Mortuary

Robert E. Shannon, City Attorney
J. Charles Parkin, Principal Deputy City Attorney
Long Beach City Attorney's Office
333 West Ocean Blvd., 11th Fl.
Long Beach, CA 90802

Attorneys for Defendant and Appellant City Of Long Beach

Estate of Golda Delaney
c/o Clerk of the Superior Court
CCP 1011(b), Case [*43] No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

Fred A. Fudacz
Nossaman LLP
445 South Figueroa, 31st Fl.
Los Angeles, CA 90071

Attorneys for California Water Service Co.

Paul Rowley
District Manager
Golden State Water Company
1920 W. Corporate Way
Anaheim, CA 92801

Sumikichi Nozaki
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

David Gomez
Designee
ABCNursery, Inc.
424 East Gardena Blvd.
Gardena, CA 90248

Marilyn H. Levin
Deputy Attorney General
CA Attorney General's Office
300 South Spring Street, Ste 1702
Los Angeles, CA 90013

Attorneys for Watermaster California Dept. of Water Resources

Steven O'Neill, Esq.
Lemeiux & O'Neill
4165 E. Thousand Oaks Blvd., Suite 350
Westlake Village, CA 91362

Attorneys for Intervenor and Appellant West Basin Municipal Water District

West Basin Water Association
24532 Ladera Drive
Mission Viejo, CA 92691

Darren W. Stroud, Esq.
ExxonMobil Corporation
3700 W. 190th Street
Torrance, CA 90504

Attorneys for Defendant Exxonmobil

Shad Rezai
Southwest District Manager
Golden State Water Company
1600 [*44] W. Redondo Beach Blvd. Suite 101
Gardena, CA 90247

Sumikichi Nozaki
16819 South Normandie Ave.
Gardena, CA 90247

Benny Dehghi
Designee
Allied Signal, Inc.
2525 West 190th Street
Torrance, CA 90509

Rebecca Harrison
Color Spot Nurseries, Tenant
American Plant Growers, Inc.
321 W. Sepulveda Blvd.
Carson, CA 90745

Kristin H. Renaudin
Vice President
Hollywood Park Land Company
4 Embarcadero Center, 33rd Floor
San Francisco, CA 94111

Pat Simons
Process Engineer
Atlantic Richfield Co.

1801 East Sepulveda Blvd.
Los Angeles, CA 90745

Susan J. Holiday
Assistant Secretary
CBS, Inc.
7800 Beverly Blvd.
Los Angeles, CA 90036

Michael J. Rossi
Vice President Eng & Water Quality
California Water Service Co.
(Dominguez)
1720 North First Street
San Jose, CA 95112-4598

Frank Lopes
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

John Robertson
Vice President
Chandler Palos Verdes Sand & Gravel Co.
P.O. Box 295
Lomita, CA 90717

Raymond Cordova
Land Service Agent
Southern California Edison Co.
14799 Chestnut Street
Westminster, CA 92683

Mike Vukelich, [*45] Jr.
202 Stein Way
Orinda, CA 94563

Kristen Brandsma Honold
29245 Bluewater Road
Malibu, CA 90265

Anne James
James And Associates
255 North El Cielo, Suite 140-286
Palm Springs, CA 92262

John Gilski
Designee
ConocoPhillips Co.

P. O. Box 758
Wilmington, CA 90748-0758

Robert Abernethy
Designee
Century Builders
P. O. Box 90855
Los Angeles, CA 90009

Rolling Hills Vista
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

Monica Pollaccia
Administrative Assistant II
Los Angeles County Recreation Facilities
433 South Vermont Ave., 3rd Fl.
Los Angeles, CA 90020

Carson Madrona Company
c/o James L. Krasne
(as agent for service of process)
9440 Santa Monica Blvd., Ste 610
Beverly Hills, CA 90210

G.G. Yesavage
Refinery General Manager
Chevron USA, Inc.
324 W. EI Segundo Blvd.
EI Segundo, CA 90245

Teny H. Witthoft
Water Resources & Systems Engineer
Watson Land Company
2632 West 237th Street
Torrance, CA 90505-5272

John B. Gustafson
Manager, FCCU, ALK, Utilities
Shell Oil Products US
P. O. Box 817
Wilmington, CA 90748-0817

Mark Stuart
Watermaster
California [*46] Dept. of Water Resources
770 Fairmont Ave., Ste 102
Glendale, CA 91203-1035

Robert Kleist
Corporate Advisory
Evergreen America Corporation
6021 Katella Ave., Ste 200
Cypress, CA 90630

Mark A. Friedman
General Manager
Hillside Memorial Park
6001 Centinela Avenue
Los Angeles, CA 90045

Desi Alvarez
Assistant City Manager
City of Downey
11111 Brookshire Avenue
Downey, CA 90241-7016

Kevin Brown
Vice President of Operations
Inglewood Park Cemetery
720 East Florence Avenue
Inglewood, CA 90301

Robert Periotti
Deputy Watermaster
California Dept. of Water Resources
770 Fairmont Ave., Ste 102
Glendale, CA 91203

Andres Santamaria
Director of Public Works
City of El Segundo
350 Main Street
EI Segundo, CA 90245

Susan Engelsma
Trustee
Susan Engelsma Trust
1210 West Locust Street
Ontario, CA 91762-5359

Donna Varner
Public Relations/Special Events
24532 Ladera Drive
Mission Viejo, CA 92691

Clen Bounds
Plant Superintendent

Churchill Downs California Co.
1050 South Prairie Avenue
Inglewood, CA 90301

Terry S. Tamble
District Manager
California Water Service Co.
2632 W. 237th Street
Torrance, CA 90505

Florence [*47] Gillingham
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

Richard Close, Esa.
Carson-Harbor Village Mobil
Home Park
1299 Ocean Avenue, Suite 900
Santa Monica, CA 90401-1000

Kenneth Rademacher
Plant Manager
Los Angeles County Sanitation
District No. 2
24501 South Figueroa Street
Carson, CA 90745

Jim Arndt
City of Manhattan Beach
3621 Bell Avenue
Manhattan Beach, CA 90266

Glen Kau,
Director/City Engineer
City of Lomita Water System
24300 Narbonne Avenue
Lomita, CA 90717

Carla R. Anderson
Designee
Josephine P. Rehor
1623 S. Dodson Avenue
San Pedro, CA 90732-4025

John R. Bauman
Palos Verdes Begonia Farm
4111 242nd Street
Torrance, CA 90505

Sumikichi Nozaki
316 W.Gardena Blvd.
Gardena, CA 90248

William P. Chan
Sr. Engineer II
Rhodia, Inc.
20720 South Wilmington Ave.
Long Beach, CA 90810-1034

James M. Tixier, Director
Catholic Cemeteries
Roman Catholic Archbishop of LA
3424 Wilshire Boulevard
Los Angeles, CA 90010-2241

Rich Nagel
General Manager
West Basin Municipal Water District
17140 S. Avalon Blvd., Ste 210
Carson, CA 90746-1296

Kevin [*48] L. Wattier
General Manager
Water Department
City of Long Beach
1800 East Wardlow Road
Long Beach, CA 90807

Rod Zimmer
Gatx Tank Storage Terminals Corp.
2000 E. Sepulveda Blvd.
Carson, CA 90810

Real Estate Manager
Loyola Marymount University
One LMU Drive, Suite 2200
Los Angeles, CA 90045

Mark W. Mithers
Manager, Plant Engineering
Northrop Corporation
One Hornet Way
El Segundo, CA 90245

Dennis Curt
Process Engineer
Atlantic Richfield Co.
P.O. Box 6210

Carson, CA 90749-6210

Ronald F. Day,
President
Pacific Crest Cemetery Co.
2701 182nd St
Redondo Beach, CA 90278

Dan Boz
Corporate Real Estate Department Shell
Oil Company
P. O. Box 4855
Houston, TX 77210-4855

Roy H. Mori
Designee
Roy H. & Kenji Mori
30224 Avenida Selecta
Rancho Palos Verdes, CA 90274

Scott Gobble
Southern California Edison Co.
14799 Chestnut Street
Westminster, CA 92683

Maxwell T. Ziegler
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

Michael Patrick George
Chairman President & CEO
Western Water Service Company 705
Mission Ave., Suite 200
San Rafael, CA 94901-3206

Eric [*49] Leung
Engineering Manager
City of Long Beach
1800 E. Wardlow Road
Long Beach, CA 90807-4994

Lauren Feldman, Esq.
Jenkins & Hogin LLP
1230 Rosecrans Ave., Suite 110
Manhattan Beach, CA 90266

Rob Beste
Director of Public Works

City of Torrance
20500 Madrona Avenue
Torrance, CA 90503

Estate of Emma Leuzinger
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

Mario Di Bella
Accounting
Tosco Corporation
P.O. Box 758
Wilmington, CA 90748

SR & ST & JK Fujimoto
15914 South Broadway
Gardena, CA 90248

Ronald E. Zonner
Project Manager Compliance
Kinder Morgan Liquids
Terminal, LLC
1100 Town and Country Road
Orange, CA 92868

Beverly McCarroll
Designee
Wiseburn School District
13530 Aviation Blvd.
Hawthorne, CA 90250

Thomas M. Erb
Director of Water Resources
City of Los Angeles Dept of Water & Power
P.O. Box 51111
Room 1460
Los Angeles, CA 90051

Jack van der Linden
City of Torrance
20500 Madrona Avenue
Torrance, CA 90503

Automation Industries, Inc.
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N. Hill St., Room 102

Los Angeles, [*50] CA 90012
Owen Curtis
c/o Clerk of me Superior Court
CCP 1011(b), Case No. C506806
111 N. Hill St., Room 102
Los Angeles, CA 90012

Jeff A. Harrison, City Attorney
City Attorney's Office
City of Vemon
4305 Santa Fe Avenue
Vernon, CA 90058

McDonnell Douglas Corp.
c/o Corporation Service Co.
2730 Gateway Oaks Dr., Ste. 100
Sacramento, CA 95833

Andrew Pollak
Office of Chief Counsel
Dept. of Water Resources
1416 Ninth St., Rm 1118-16
Sacramento, CA 95814

Patrick Scanlon
Vice President of Water Operations
Golden State Water Co.
1920 W. Corporate Way
Anaheim, CA 92801

Francisco Leal
Leal & Trejo, LLP
707 Wilshire Boulevard, Suite 3700
Los Angeles, CA 90017

James D. Leinbach
Treasurer
Coastline Church of Christ
1121 West Lomita Blvd.
Harbor City, CA 90710

Mayflower Nurseries
c/o Nolan H. Fukuwa
Agent for Service of Process
1749 West 122nd St.
Los Angeles, CA 90247

Iris Malsman
Leon Romero
Designee

State of California, Caltrans
100 S. Main St., Suite 1300
Los Angeles, CA 90012

Steven Skolnik, City Attorney
City of Lakewood
City Attorney's Office
5050 Clark Ave.
Lakewood, CA 90702

Russell Miyahira
Acting [*51] City Attorney
City of Hawthorne
4455 West 126th Street
Hawthorne, CA 90250

Margaret G. Graf
Archdiocesan General Counsel
Archdiocesan Catholic Center
3424 Wilshire Blvd.
Los Angeles, CA 90010

David L. Penrice
Chief Executive Officer
Aqua Capital Management LP
444 Regency Parkway Dr., Ste. 300
Omaha, NE 68144

Fukuwa, President
Mayflower Nurseries
16908 South Normandie Ave.
Gardena, CA 90247

John Gage
Manager of Facilities Operation
Hughes Aircraft Co.
P.O. Box 2999
Blvd. 230, MA 157
Torrance, CA 90509

Watt Industrial
c/o Clerk of the Superior Court
CCP 1011(b), Case No. C506806
111 N.Hill St., Room 102
Los Angeles, CA 90012

Myron Z. Chalvin
Attn: B.Elliott
Myron Z. Chalvin & Nettie
Desser Trust and JHD Properties

6900 Acco Street
Montebello, CA 90640

Milan Cernosek
Deputy Watermaster
California Dept. of Water Resources
770 Fairmont Ave., Ste. 102
Glendale, CA 91203

Robert Maycumber
Budget Division Head
County of Los Angeles Dept. of Parks and
Recreation
433 S. Vermont Ave., 3rd Fl.
Los Angeles, CA 90020

Kathleen Kunysz
Program Manager
Metropolitan Water District of Southern
California
P.O. Box 54153
Los [*52] Angeles, CA 90054

Nakamaru Tatsue
President
Asahi Fancy Koi, Inc.
1051 West 190th Street
Gardena, CA 90248

Hon. Conrad R. Aragon, Judge
c/o Clerk of the Court
Los Angeles Superior Court, Central
District
111 North Hill Street
Los Angeles, CA 90012

Los Angeles Superior, Case No. C506806

(Via Overnight Delivery)

Adam Ariki
Water Works District Division
Los Angeles County Recreation Facilities
900 S. Fremont Ave., 9th Fl.
Alhambra, CA 91803

Glen W.C. Kau
Director of Public Works
City of Inglewood
One Manchester Blvd.

Inglewood, CA 90301

Terry S. Tamble
District Manager
California Water Service Co.
2632 W. 237th St.
Torrance, CA 90505

Palos Verdes Begonia Farm
c/o John E. Bauman
4111 242nd Street
Torrance, CA 90505

Clerk of the Court of Appeal
Court Of Appeal
Second Appellate District, Division Five
300 S. Spring St., Fl. 2, N. Tower
Los Angeles, CA 90013

Court of Appeal, Case No. B225058

(Via Overnight Delivery)

[SEE ATTACHMENT IN ORIGINAL]