

No. S251709

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**IN THE SUPREME COURT OF CALIFORNIA**

—◆—  
PROTECTING OUR WATER & ENVIRONMENTAL  
RESOURCES, et al.,

*Plaintiffs and Appellants,*

v.

STANISLAUS COUNTY, et al.,

*Defendants and Respondents.*

—◆—  
After a Decision by the Court of Appeal, Fifth Appellate District  
Case No. F073634

Appeal from the Stanislaus County Superior Court  
Case No. 2006153  
The Honorable Roger M. Beauchesne, Judge, Presiding

—◆—  
**AMICUS CURIAE REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF AMICUS CURIAE BRIEF**  
—◆—

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SUPREME COURT  
FILED

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Deputy

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CLERK SUPREME COURT

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**REQUEST FOR JUDICIAL NOTICE OF APPELLATE COURT  
FIRST AMENDED PETITION FOR WRIT OF MANDATE  
[CALIFORNIA ENVIRONMENTAL QUALITY ACT]**

Pursuant to California Rules of Court rules 8.520(g) and 8.252(a) and California Evidence Code §§ 452, subdivision (d) and 459, subdivision (a), Amicus Curiae Association for California Water Agencies (“**Amicus Curiae**”) hereby requests that this Court take judicial notice of a petition for writ of mandate in the Stanislaus County, California, Superior Court.

Amicus Curiae requests that the Court take judicial notice of the First Amendment Petition for Writ of Mandate [California Environmental Quality Act], *Jamie Coston, Heidi Coston, Andrea Medeiros, Milton Medeiros, Kelly Vella, Carla Wong, Vivien Wong*, Plaintiffs, vs. *Stanislaus County; Board of Supervisors of the County of Stanislaus; Jami Aggers*, in her official capacity as Director of Environmental Resources, County of Stanislaus; and Does 1 through 20, Respondents, *RB Ranch Development, LLC; Nick Bavaro*, and Does 21 through 40, Real Parties in Interest Stanislaus County, California, Superior Court, Case No. 2016561, attached as Exhibit 1 (“**Petition for Writ**”). Under Evidence Code § 459, subdivision (a), a court may take judicial notice under Evidence Code § 452, subdivision (d) on matters of “[r]ecords of (1) any court of this state or (2) any court of record of the United States or any state of the United States.”

The Petition for Writ for which notice is sought is relevant to the issues before this Court because it supports Defendants’ Opening Brief on the Merits dated January 14, 2019, and Association of California Water Agency’s amicus brief supporting the Defendants in *Protecting Our Water & Environmental Resources v. Stanislaus County*, Supreme Court. No. S251709 (*POWER*).

More specifically *Coston* was filed at the same time as *POWER*. *POWER* represents a facial challenge to Stanislaus County's well permit ordinance while *Coston* is an as applied challenge to Stanislaus County's well permit ordinance. While the cases were not consolidated they were informally coordinated and heard at the same time and place at both the trial court and appellate court. Attorneys for the petitioners and defendants are the same in each case. The *Coston* appellate court opinion is virtually identical to the opinion appearing in *POWER*. This Supreme Court granted review in both *POWER* and *Coston* and then stayed *Coston* pending the outcome of *POWER*.

The *Coston* petition for writ of mandate is instructive when considering the legal claims pending in *POWER*. The petition identifies the environmental concerns asserted by petitioners and thus allows the Court to compare these environmental concerns to the alleged moment of discretion in the challenged well permit ordinance. The current case, representing a facial challenge to the ordinance, does not provide this important detail, resulting in speculation and uncertainty. *Coston's* petition for writ of mandate answers such speculation and uncertainty by clearly identifying the environmental harm at issue thereby unclogging the lines of clarity to consider the appropriate treatment of CEQA in this situation.

Notice of the Petition for Writ was not sought before the trial court or Court of Appeal. This is because *POWER* and *Coston* were heard at the same time in front of the same appellate panel. The near identical opinions issued in each case illustrate connectivity between the two matters.

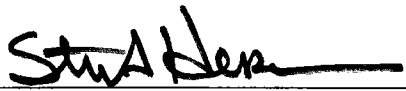
This Court routinely takes judicial notice of records from California courts under the authority of Evidence Code §§ 452, subdivision (d) and 459, subdivision (a).

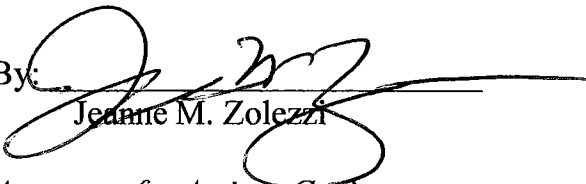
*Amicus Curiae* therefore respectfully request that the Court grant this Request for Judicial Notice.

Dated: APRIL 24, 2019

Respectfully submitted,

HERUM\CRABTREE\SUNTAG

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By:   
Jeanne M. Zolezzi

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Association of California Water  
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**PROOF OF SERVICE**

I, Laura Cummings, certify and declare as follows

I am over the age of 18 years and not a party to this action. My business address is: HERUM\CRABTREE\SUNTAG, 5757 Pacific Avenue, Suite 222, Stockton, California 95207. On the date set forth below, I served the following document(s):

**AMICUS CURIAE REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF AMICUS CURIAE BRIEF**

- [X] BY U.S. MAIL** - with the United States Postal Service in a sealed envelope, with postage thereon fully prepaid.  
The envelope was addressed as follows:

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San Francisco, CA 94102

Court of Appeal-Fifth Appellate District (1 Copy)  
Clerk of the Court  
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Fresno, CA 93721

Stanislaus County Superior Court (1 Copy)  
Clerk of the Court  
801 10th Street, 4<sup>th</sup> Floor  
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I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: April 25, 2019

  
LAURA CUMMINGS

