

FILED

JUN 05 2009

INYO CO. SUPERIOR COURT
NANCY A. MOXLEY, CLERK

BY *[Signature]* DEPUTY

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12 Little Lake Ranch, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF INYO

FAX FILED

15 LITTLE LAKE RANCH, INC, a California
16 corporation,

17 Petitioner.

18 v. .

19 COUNTY OF INYO;
20 INYO COUNTY BOARD OF SUPERVISORS;
21 INYO COUNTY PLANNING COMMISSION;
22 INYO COUNTY PLANNING DEPARTMENT;
23 and DOES 1 through 50, inclusive,

24 Respondents.

25 COSO OPERATING COMPANY, LLC; and
26 ROES 1 through 50, inclusive,

27 Real Parties in Interest.

CASE NO. -
IC-SI-CV-PT-09-48538
Unlimited

**VERIFIED
PETITION FOR WRIT
OF MANDATE**

28 LITTLE LAKE RANCH, INC, alleges:

PARTIES

1. Petitioner, Little Lake Ranch, Inc, is a California corporation duly organized and existing under the laws of the State of California. It owns approximately 1,200 acres of real property in the vicinity of the project which will be directly affected by the project, including the navigable body of water known as Little Lake, downstream ponds, valuable wildlife habitat, water resources and improvements, the legal description of which is attached hereto as Exhibit A, and incorporated

1 herein by this reference.

2 2. Petitioner is informed and believes and, based thereon, alleges that the County of
3 Inyo, is a public agency with the authority and duty to approve conditional use permits and
4 environmental documents for projects within its jurisdiction.

5 3. Petitioner is informed and believes and, based thereon, alleges that the Inyo County
6 Board of Supervisors, is a public agency with the authority and duty to approve conditional use
7 permits for projects within its jurisdiction.

8 4. Petitioner is informed and believes and, based thereon, alleges that Respondent, Inyo
9 County Planning Commission, is a public agency with the authority and duty to approve conditional
10 use permits and environmental documents for projects within its jurisdiction.

11 5. Petitioner is informed and believes and, based thereon, alleges that the Inyo County
12 Planning Department, is a public agency with the authority and duty to approve conditional use
13 permits and environmental documents for projects within its jurisdiction.

14 6. Does 1 through 50, inclusive, are persons or entities presently unknown to Petitioner,
15 which are responsible for the actions described herein or for carrying out the functions of the County
16 of Inyo and who may be affected by this litigation. Petitioner will amend this Petition to specifically
17 identify each such respondent as required and as the capacity and identity of each such respondent
18 becomes known.

19 7. Real Party in Interest, Coso Operating Company, LLC (“Coso”), is a Delaware
20 limited liability company authorized to do business in the State of California. Coso is the owner and
21 operator of the project, and applicant for the conditional use permit, described below.

22 8. Roes 1 through 50, inclusive, are persons presently unknown to Petitioner, who have
23 a legal interest in the project being challenged herein. Petitioner will amend this Petition to
24 specifically identify each such real party in interest as required and as the capacity and identity of
25 each such real party in interest becomes known.

26 **BACKGROUND FACTS**

27 9. Coso has applied for a 30-year conditional use permit (“CUP”) for the Hay Ranch
28 Water Extraction and Delivery System (“Project”). The Project is the proposed water well pumping

1 operations consisting of two (2) water wells on the Coso Hay Ranch to pump over 4,800 acre feet of
2 water per year from the Rose Valley underground water basin and transport such water along a nine-
3 mile pipeline from the Coso Hay Ranch in Rose Valley to the Coso Geothermal field located in the
4 northwest area of the China Lake Naval Air weapons station, in the southwest portion of Inyo
5 County. The Hay Ranch and geothermal field are owned and operated by Coso. The pipeline will
6 remove water from the Rose Valley water basin and transfer it to the Coso Geothermal reservoir,
7 outside of the Rose Valley water basin, to help minimize the annual water reservoir decline due to
8 evaporation through the Coso Geothermal plant's cooling towers and as part of a larger project
9 intended to reverse the decline and increase the existing energy output of the Coso plant by over
10 33%. Respondent(s) are the lead agency(ies) responsible under the California Environmental
11 Quality Act (CEQA) for evaluating the environmental impacts of the Project.

12 10. Respondents caused a draft Environmental Impact Report ("DEIR") for the Project to
13 be prepared and circulated. The Final Environmental Impact Report ("FEIR") was made available
14 for public review on or about January 2, 2009.

15 11. Petitioner, other agencies, interested groups, and individuals made oral and written
16 comments on the DEIR and FEIR and raised each of the legal deficiencies asserted in this Petition.
17 In addition to writing numerous letters to Respondent, Petitioner also appeared at and objected to the
18 FEIR at hearings before the Inyo County Water Commission on January 12 and 26, 2009, before the
19 Inyo County Planning Commission on March 11, 2009, and before the Inyo County Board of
20 Supervisors on May 6, 2009.

21 12. Respondents certified the adequacy of the FEIR under CEQA and approved the CUP
22 on or about May 6, 2009. A Notice of Determination to carry out the Project was filed by
23 Respondents on May 7, 2009.

24 **JURISDICTION AND VENUE**

25 13. This Court has jurisdiction over the matters alleged in this Petition pursuant to Code
26 of Civil Procedure section 1094.5 and Public Resources Code section 21168. In the alternative, this
27 Court has jurisdiction pursuant to Code of Civil Procedure section 1085 and Public Resources Code
28 section 21168.5

1 **FIRST CAUSE OF ACTION**

2 (Violations of CEQA)

3 22. Plaintiff incorporates herein by reference each and every allegation of paragraphs 1
4 through 21, inclusive, of this Petition as though fully set forth herein.

5 23. Respondents and Real Party in Interest are threatening to proceed with the
6 construction and operation of the Project in the near future. Construction and operation of the
7 Project will irreparably harm the environment in that it will impair the availability of water within
8 the Rose Valley water basin and to Petitioner's real property and the flow of water into Little Lake.
9 This, in turn, will affect outflow from Little Lake to downstream ponds and a riparian corridor,
10 damaging environmentally sensitive wetlands, including the habitat and wildlife located therein
11 which are dependent upon the continuing flow of water. A stay under Code of Civil Procedure
12 section 1094.5 should issue to stay further action being taken on the NOD and CUP. Alternatively, a
13 temporary restraining order and preliminary injunction should issue restraining Real Party in Interest
14 from proceeding with the Project.

15 24. Respondent's actions in certifying the FEIR, adopting findings and approving the
16 CUP constitute a prejudicial abuse of discretion in that Respondents failed to proceed in the manner
17 required by law. Respondents' decision is not supported by substantial evidence and constitutes
18 violations of CEQA and its implementing Guidelines because the FEIR fails to evaluate the Project's
19 significant environmental impacts, fails to include sufficient or effective mitigation measures, fails to
20 adequately address cumulative impacts and fails to adequately describe and evaluate alternatives to
21 the project, including but not limited to the following:

22 a. The FEIR fails to comply with CEQA due to the lack of an accurate
23 description of the Project. The description is incomplete and misleading in that it was limited
24 to the Hay Ranch wells, electrical substation, and construction of the 9-mile pipeline and
25 failed to adequately describe foreseeable ancillary or related improvements proposed by
26 Coso that constitute part of the same Project. Those related improvements include without
27 limitation, Coso's proposal to drill one or more additional injection wells by which the Rose
28 Valley water would be injected. The environmental impacts from such improvements have

1 not been identified or evaluated. Coso has confirmed a \$100,000,000 capital improvement
2 project to overhaul the plant, but none of these anticipated improvements have been
3 identified or evaluated in connection with the Project.

4 b. The FEIR fails to comply with CEQA due to the lack of an accurate
5 description of the Project's purpose and objectives. The FEIR describes the purpose of the
6 Project to import water for the purpose of reducing the decline in the production at Coso. In
7 contrast, after the FEIR was released, Coso disclosed that it intended, not just to reduce the
8 decrease in production, but rather to boost production by over 50 MW. The FEIR does not
9 evaluate the environmental impacts of such increase in production.

10 c. The FEIR uses the wrong "baseline" to analyze CEQA impacts in that the
11 environmental impacts were measured on the basis of Coso's permitted capacity, which it is
12 incapable of meeting, rather than its current physical operating conditions.

13 d. The FEIR fails to establish a threshold of significance based upon substantial
14 evidence in the record. Rather, the establishment of 10% reduction in inflows at Little
15 Lake as the threshold is an arbitrary standard. Further, there is no biological report or
16 evidence in the FEIR substantiating the conclusion that a 10% reduction would not
17 adversely affect the vegetation and the wildlife that depends on it, at Little Lake and in Rose
18 Valley. The FEIR does not evaluate the impacts a 10% reduction will have on the
19 landowners and other water users in the Rose Valley. Nor does the FEIR establish the initial
20 underground water levels from which mitigation triggers are measured.

21 e. The FEIR fails to establish adequate thresholds of significance for other
22 impacts related to Coso's pumping within the Rose Valley, including, but not limited to, the
23 draw down of water and the impacts upon vegetation and wildlife caused thereby. The FEIR
24 only looked at the impact of the Project on the vegetation and wildlife within the route for the
25 9-mile pipeline and failed to consider the impact on vegetation and wildlife in the whole of
26 Rose Valley, in general, and in the wetland area, in particular, which is one of the few
27 wetlands located in the Eastern Sierra flyway.

28 f. The FEIR fails to adequately address cumulative impacts from the Project.

1 There are at least four known projects in development in the immediate area that are likely to
2 impact this Project and to require water from the Rose Valley: LADWP has plans to recover
3 800-900 AFY of water due to leakage from Haiwee Reservoir; and three other geothermal
4 projects are in development by Deep Rose and Maxx Management. In addition, there are
5 any number of other alternative projects that may arise due to wind and solar projects, and
6 none of these were studied. The FEIR failed to address the cumulative impacts from all of
7 these projects in determining whether Coso should be allowed to pump. Also, assuming that
8 the additional wells and other capital improvements proposed by Coso are viewed as separate
9 from the Project, the FEIR failed to address the cumulative impact of such improvements to
10 the Coso facility together with the impacts of the Project itself.

11 g. The FEIR fails to adequately consider and evaluate feasible alternatives,
12 including but not limited to, (1) the use, in whole or part, of air cooled technology which
13 would eliminate the need for imported water and allow the geothermal energy plant to
14 become sustainable, (2) the importation of water from other nearby water basins, (3) the
15 implementation of other capital improvements such as the drilling of new production wells,
16 drilling deeper production wells and taking other steps to boost energy production without the
17 need for injected water, and (4) the importation of reclaimed water for injection. Since the
18 stated purpose of the FEIR was unduly restrictive, as alleged above, Respondents were able
19 to exclude from serious consideration other alternatives that may eliminate the need for
20 injected water. In addition, Respondents relied exclusively on the evaluation of other
21 alternatives made by Coso and its consultants, rather than an independent evaluation.

22 h. The FEIR was not subject to adequate public review and comment in that
23 Respondents allowed substantial new facts and evidence to be submitted in support of the
24 FEIR's conclusions after the FEIR was published for public comment.

25 i. The FEIR's mitigation measures are inadequate because they rely on studies
26 after the Project was approved and are ineffective to limit or avoid the environmental impacts
27 that are allowed by the Project.

28 j. The FEIR's "no project" alternative was not adequately described. Most

1 importantly, the no project alternative failed to consider that the Project resulted in a
2 transitory or only temporary solution to Coso's alleged problems.

3 25. Respondents thereby violated their duties to certify an FEIR and to adopt adequate
4 findings conforming to the requirements of CEQA and the CEQA Guidelines, Title 14, California
5 Code of Regulations, section 15000, *et seq.* Accordingly, certification of the FEIR and approval of
6 the CUP must be set aside.

7 **SECOND CAUSE OF ACTION**

8 (Violations of Inyo County Code, Chapters 18.77.000 *et seq.*)

9 26. Plaintiff incorporates herein by reference each and every allegation of paragraphs 1
10 through 25, inclusive, of this Petition as though fully set forth herein.

11 27. Respondents violated Inyo County Code Chapters 18.77.000 *et seq.*, which were in
12 full force and effect at all times relevant herein, by, *inter alia*, the actions described in paragraph 24
13 above, and failing to make the findings required by Chapter 18.77.030, failing to consider all
14 relevant factors, failing to heed the recommendations submitted by the water commission, and failing
15 to provide substantial evidence in support of its approval of the CUP. A true and correct copy of
16 Chapters 18.77.000 *et seq.*, is attached hereto as Exhibit C and incorporated herein by this reference.

17 28. Accordingly, approval of the CUP must be set aside.

18 WHEREFORE, Petitioner demands entry of judgment as follows:

- 19 1. For issuance issue of a stay to stay further action being taken on the NOD and CUP.
20 2. In the alternative, for a temporary restraining order and preliminary injunction restraining
21 Real Party in Interest from taking any action to carry out the Project pending trial.

22 3. For a peremptory writ of mandate directing:

23 (a) Respondents to vacate and set aside its certification of the FEIR and the CUP
24 approved on May 6, 2009.

25 (b) Respondents and real party in interest to suspend all activity under the CUP that
26 could result in any change or alteration in the physical environment until Respondents have
27 taken actions that may be necessary to bring the FEIR and CUP into compliance with CEQA
28 and Inyo County Code, Chapters 18.77, *et seq.*

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(c) Respondents to prepare, circulate and consider a new and legally adequate environmental impact report.

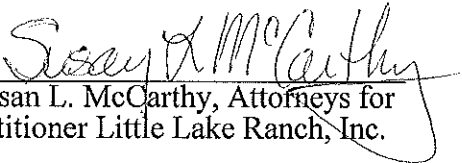
4. For costs of suit.

5. For an award of reasonable attorney fees, pursuant to Code of Civil Procedure section 1021.5 and other applicable fee statutes; and

6. For other equitable or legal relief that the Court considers just and proper.

DATE: June 5, 2009

Arnold, Bleuel, LaRochelle, Mathews
& Zirbel, LLP

By: 
Susan L. McCarthy, Attorneys for
Petitioner Little Lake Ranch, Inc.

FILE NO. 48431

LEGAL DESCRIPTION

PARCEL 1: (37-170-04)

THAT PORTION OF SECTION 17, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST SIDE OF TH STATE HIGHWAY SOUTH 16°08'32" EAST 955.14 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18, OF SAID TOWNSHIP AND RANGE; THENCE SOUTH 78°54' EAST 256.43 FEET TO A PIPE; THENCE SOUTH 15°04'41" WEST 574 FEET TO A PIPE; THENCE NORTH 78°02' WEST 79.21 FEET TO A PIPE, AND CONTINUING NORTH 78°02' WEST 123.00 FEET TO A PIPE ON THE EAST SIDE OF THE HIGHWAY; AT A POINT SOUTH 6°33'53" EAST 1492.00 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18 OF SAID TOWNSHIP AND RANGE; THENCE ALONG THE EAST SIDE OF SAID STATE HIGHWAY NORTH 10°34' EAST 16.65 FEET; THENCE NORTH 10°04' EAST 32.36 FEET; THENCE NORTH 9°43' EAST, 31.41 FEET; THENCE NORTH 9°31' EAST 30.47 FEET; THENCE NORTH 9°28' EAST 457.49 FEET; THENCE ON A CURVE TO THE LEFT, HAVING A RADIUS OF 1664.85 FEET, A DISTANCE OF 4.20 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED MAY 4, 1961 IN BOOK 145 PAGE 636 OF OFFICIAL RECORDS.

PARCEL 2: (37-170-06)

THAT PORTION OF SECTION 17, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M. IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST SIDE OF THE STATE HIGHWAY, AS DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 20, PAGE 299 OF OFFICIAL RECORDS, SOUTH 6°33'53" EAST, 1492.00 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18 OF SAID TOWNSHIP AND RANGE; THENCE SOUTH 78°02' EAST, 123.00 FEET TO AN IRON PIPE; THENCE SOUTH 78°02' EAST, 79.21 FEET; THENCE SOUTH 15°04'41" WEST, 252.20 FEET TO A PIPE; THENCE NORTH 78°54' WEST, 198.87 FEET TO A POINT ON A CURVE ON THE EAST SIDE OF THE HIGHWAY, HAVING A RADIUS OF 1612.69 FEET; THENCE ALONG SAID CURVE TO THE LEFT, A DISTANCE OF 236.49 FEET; THENCE ALONG THE EAST SIDE OF THE HIGHWAY NORTH 10°34' EAST, 16.65 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION THEREOF WHICH IS BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PROPERTY (SAID CORNER BEGINS THE SOUTHEAST CORNER OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MAY 4, 1961 IN BOOK 145 PAGE 636, OF OFFICIAL RECORDS) THENCE (1) FROM SAID CORNER AND ALONG THE NORTH LINE OF SAID UNION BANK PROPERTY, NORTH 78°48'27" WEST, 47.62 FEET TO THE WESTERLY TERMINUS OF COURSE NO. 6 OF SAID DEED TO THE STATE OF CALIFORNIA; THENCE (2) ALONG A LINE CONCENTRIC WITH AND LYING 71.00 FEET WESTERLY OF (MEASURED RADially) THE FREEWAY BASE LINE OF THE DEPARTMENT OF PUBLIC WORKS; SURVEY FROM 1.3 MILES SOUTH OF LITTLE LAKE TO 3.5 MILES NORTH OF LITTLE LAKE, (FREEWAY IX-INY-23-G) AND FROM A TANGENT WHICH BEARS SOUTH 5°42' WEST ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1929 FEET, THROUGH AN ANGLE OF 7°28'17" AND AN ARC DISTANCE OF 251.54 FEET TO A POINT ON THE SOUTH LINE OF SAID UNION BANK PROPERTY; THENCE (3) ALONG SAID SOUTH LINE SOUTH 79°01'25" EAST, 22.44 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER THEREOF; THENCE (4) ALONG THE EAST LINE OF SAID PROPERTY, NORTH 15°11'06" EAST, 251.78 FEET TO SAID NORTHEAST CORNER AND THE POINT OF BEGINNING HEREOF, CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED IN BOOK 150 PAGE 36 OF OFFICIAL RECORDS.

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PARCEL 3: (37-170-06)

A NON-EXCLUSIVE EASEMENT OVER A PORTION OF SECTION 17, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, FOR ROAD AND DRIVEWAY PURPOSES IN COMMON WITH THOMAS J. BRAMLETTE AND HAZEL BRAMLETTE, HUSBAND AND WIFE, AS JOINT TENANTS, AND EARL E. SULLIVAN AND JUNE M. SULLIVAN, HUSBAND AND WIFE, AS JOINT TENANTS, AND BURL B. MATHENY AND ISABELL MATHENY, HUSBAND AND WIFE, AS JOINT TENANTS, THEIR HEIR OR ASSIGNS AS RECORDED FEBRUARY 24, 1955 IN BOOK 114 PAGE 94 OF OFFICIAL RECORDS IN, OVER, UPON AND ACROSS THE FOLLOWING DESCRIBED PROPERTY, LYING AND BEING SITUATED IN THE COUNTY OF INYO, STATE OF CALIFORNIA, TO WIT:

BEGINNING AT A POINT ON THE EAST SIDE LINE OF THE STATE HIGHWAY 160.58 FEET NORTH OF THE SOUTHWEST CORNER OF THE REAL PROPERTY HEREINAFTER DESCRIBED AND RUNNING THENCE SOUTH 78°02' EAST, 128.43 FEET; THENCE SOUTH 11°39' WEST, 160.47 FEET TO AN IRON PIPE; THENCE SOUTH 78°02' EAST, 15 FEET; THENCE NORTH 11°39' EAST, 175.47 FEET; THENCE NORTH 78°02' WEST, 128.43 FEET TO THE EAST SIDE OF THE HIGHWAY; THENCE SOUTH ALONG SAID EAST SIDE OF THE HIGHWAY 15 FEET TO THE POINT OF BEGINNING.

SAID RIGHT OF WAY BEING A PART AND PORTION, TO-WIT: A PORTION OF SECTION 17, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST SIDE OF THE STATE HIGHWAY SOUTH 16°08'32" EAST 955.14 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18 OF SAID TOWNSHIP AND RANGE; THENCE SOUTH 78°54' EAST 256.43 FEET TO A PIPE; THENCE SOUTH 15°04'41" WEST 574 FEET TO A PIPE; THENCE NORTH 78°02' WEST 79.21 FEET TO A PIPE, AND CONTINUING NORTH 78°02' WEST 123.00 FEET TO A PIPE ON THE EAST SIDE OF THE HIGHWAY; AT A POINT SOUTH 6°33'53" EAST 1492.00 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18 OF SAID TOWNSHIP AND RANGE; THENCE ALONG THE EAST SIDE OF SAID STATE HIGHWAY NORTH 10°34' EAST 16.65 FEET; THENCE NORTH 10°04' EAST 32.36 FEET; THENCE NORTH 9°43' EAST, 31.41 FEET; THENCE NORTH 9°31' EAST 30.47 FEET; THENCE NORTH 9°28' EAST 457.49 FEET; THENCE ON A CURVE TO THE LEFT, HAVING A RADIUS OF 1664.85 FEET, A DISTANCE OF 4.20 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION THEREOF INCLUDED IN THOSE CERTAIN DEEDS TO THE STATE OF CALIFORNIA FOR HIGHWAY PURPOSES, RECORDED IN BOOK 145, PAGE 636 OF OFFICIAL RECORDS AND IN BOOK 150, PAGE 117 OF OFFICIAL RECORDS.

PARCEL 4: (37-170-07)

A PARCEL OF LAND IN SECTIONS 17 AND 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.B., IN INYO COUNTY CALIFORNIA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., AND RUNNING THENCE SOUTH 3°33' 1729.66 FEET TO A TWO INCH PIPE ON THE EAST SIDE OF THE PRESENT HIGHWAY, THE TRUE POINT OF BEGINNING; THENCE SOUTH 78°54' EAST 176.43 FEET TO THE WEST SIDE OF THE NEW STATE HIGHWAY; THENCE SOUTH ALONG THE WEST SIDE OF THE NEW STATE HIGHWAY ON A CURVE CONCAVE TO THE EAST 227.38 FEET, SAID CURVE HAVING A RADIUS OF 1929 FEET; THENCE SOUTH 19°55'30" WEST, ALONG THE WEST SIDE OF THE SAID HIGHWAY 272.6 FEET TO A HALF INCH REINFORCING BAR DRIVEN IN THE GROUND; THENCE NORTH 81°50' WEST 252.90 FEET TO THE EAST SIDE OF THE PRESENT HIGHWAY; THENCE A TWO INCH PIPE BEARS NORTH 81°50' WEST, 3.30 FEET; THENCE FROM THE POINT ON THE EAST SIDE OF THE PRESENT HIGHWAY NORTH ALONG THE EAST SIDE OF SAID HIGHWAY ON A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 2300 FEET, 38.90 FEET TO A CONCRETE HIGHWAY BOUNDARY MONUMENT; THENCE NORTH 25°31' EAST, 119.21 FEET TO A CONCRETE HIGHWAY BOUNDARY MONUMENT; THENCE NORTH 31°12' EAST 30.47 FEET; THENCE NORTH 31°00' EAST 31.41 FEET; THENCE NORTH 30°29' EAST 32.86 FEET; THENCE NORTH 30°09' EAST 33.30 FEET; THENCE NORTH ALONG THE EAST SIDE OF THE PRESENT HIGHWAY, ALONG A CURVE CONCAVE TO THE EAST AND

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HAVING A RADIUS OF 1612.29 FEET, 242.30 FEET TO THE POINT OF BEGINNING.

SAID LAND IS SHOWN UPON THAT CERTAIN RECORD OF SURVEY MAP RECORDED IN BOOK 11 PAGE 37 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 5: (37-230-12)

WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE DECEMBER 4, 1881.

PARCEL 6: (37-230-12)

EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE DECEMBER 4, 1881.

EXCEPTING THAT PORTION THEREOF INCLUDED WITHIN THE LAND CONVEYED BY THOMAS J. BRAMLETTE, ET UX, TO STATE OF CALIFORNIA, FOR FREEWAY PURPOSES, BY DEED RECORDED MARCH 28, 1962 IN BOOK 150 PAGE 126 OF OFFICIAL RECORDS.

PARCEL 7: (37-230-12)

SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE DECEMBER 4, 1881.

EXCEPTING THAT PORTION THEREOF INCLUDED WITHIN THE LAND DESCRIBED IN THE DEED TO NEVADA AND CALIFORNIA RAILWAY COMPANY, A CORPORATION, BY DEED RECORDED IN BOOK 15, PAGE 573 OF OFFICIAL RECORDS.

ALSO EXCEPTING THAT PORTION THEREOF INCLUDED WITHIN THE LAND CONVEYED BY THOMAS J. BRAMLETTE, ET UX, TO STATE OF CALIFORNIA, FOR FREEWAY PURPOSES BY DEED RECORDED MARCH 28, 1962 IN BOOK 150 PAGE 126 OF OFFICIAL RECORDS.

PARCEL 8: (37-230-12)

THE EAST HALF OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 7, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DECEMBER 4, 1881.

EXCEPTING THAT PORTION THEREOF INCLUDED WITHIN THE LAND CONVEYED BY THOMAS J. BRAMLETTE ET UX TO STATE OF CALIFORNIA, FOR FREEWAY PURPOSES BY DEED RECORDED MARCH 28, 1962 IN BOOK 150 PAGE 126 OF OFFICIAL RECORDS.

ALSO EXCEPTING FROM SAID LAND UNDIVIDED 1/16TH OF ALL COAL, OIL, OIL SHALE, GAS PHOSPHATE, SODIUM AND OTHER MINERAL DEPOSITS IN SAND LAND, AS RESERVED IN THE PATENT FROM THE STATE OF CALIFORNIA, RECORDED IN BOOK 13 PAGE 494 OF OFFICIAL RECORDS.

PARCEL 9: (37-230-12)

NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE DECEMBER 4, 1881.

EXHIBIT A
PAGE 3 OF 6

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EXCEPTING THAT PORTION THEREOF INCLUDED WITHIN THE LAND DESCRIBED IN THE DEED TO NEVADA AND CALIFORNIA RAILWAY COMPANY, A CORPORATION, BY DEED RECORDED IN BOOK 15 PAGE 573 OF DEEDS.

ALSO EXCEPTING THAT PORTION THEREOF INCLUDED WITHIN THE LAND CONVEYED BY THOMAS J. BRAMLETTE, ET UX, TO STATE OF CALIFORNIA, FOR FREEWAY PURPOSES, BY DEED RECORDED MARCH 28, 1962 IN BOOK 150 PAGE 126 OF OFFICIAL RECORDS.

PARCEL 10: (37-230-12)

NORTHEAST QUARTER OF THE NORTHEAST QUARTER; SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DECEMBER 4, 1881.

EXCEPTING THOSE PORTIONS THEREOF INCLUDED WITHIN THE LAND CONVEYED BY CHARLES W. WHITTOCK TO NEVADA AND CALIFORNIA RAILWAY COMPANY, A CORPORATION, BY DEED RECORDED JANUARY 12, 1909 IN BOOK 15, PAGE 573 OF DEEDS AND RECORDED FEBRUARY 6, 1909 IN BOOK 14 PAGE 536 OF DEEDS.

ALSO EXCEPTING THOSE PORTIONS THEREOF INCLUDED WITHIN THE LAND CONVEYED BY WILLIAM WALES BRAMLETTE AND ELVIRA BRAMLETTE, TO CENTRAL PACIFIC RAILWAY COMPANY, A CORPORATION, BY DEED RECORDED FEBRUARY 13, 1930 IN BOOK 18 PAGE 590 OF OFFICIAL RECORDS.

ALSO EXCEPTING THAT PORTION OF SAID LAND DESCRIBED IN THE DEED FROM THOMAS J. BRAMLETTE, ET UX, TO CHARLES L. CARR, RECORDED IN BOOK 151 PAGE 3 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 7, 8, 17 AND 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., AND RUNNING THENCE SOUTH 3°33' EAST 1729.66 FEET TO A 2 INCH PIPE ON THE EAST SIDE OF THE PRESENT HIGHWAY, THE TRUE POINT OF BEGINNING; THENCE SOUTH 78°54' EAST 176.43 FEET TO THE WEST SIDE OF THE NEW HIGHWAY; THENCE SOUTH ALONG THE WEST SIDE OF THE NEW HIGHWAY ON A CURVE CONCAVE TO THE EAST 227.38 FEET, SAID CURVE HAVING A RADIUS OF 1929 FEET; THENCE SOUTH 19°55'30" WEST ALONG THE WEST SIDE OF THE SAID HIGHWAY 272.6 FEET TO A HALF INCH REINFORCING BAR DRIVEN IN THE GROUND; THENCE NORTH 81°50' WEST 252.90 FEET TO THE EAST SIDE OF THE PRESENT HIGHWAY THENCE A 2 INCH PIPE BEARS NORTH 81°50' WEST 3.30 FEET; THENCE FROM THE POINT ON THE EAST SIDE OF THE PRESENT HIGHWAY NORTH ALONG THE EAST SIDE OF SAID HIGHWAY ON A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 2300 FEET, 38.90 FEET TO A CONCRETE HIGHWAY MONUMENT; THENCE NORTH 25°31' EAST, 119.21 FEET TO A CONCRETE HIGHWAY BOUNDARY MONUMENT; THENCE NORTH 31°12' EAST 30.47 FEET; THENCE NORTH 31°00" EAST 31.41 FEET; THENCE NORTH 30°29' EAST 32.36 FEET; THENCE NORTH 30°09' EAST 33.30 FEET; THENCE NORTH ALONG THE EAST SIDE OF THE PRESENT HIGHWAY ALONG A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 1612.69 FEET, 242.30 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THAT PORTION THEREOF LYING EAST OF STATE HIGHWAY 395 AS CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED MARCH 28, 1962 IN BOOK 150 PAGE 126 OF OFFICIAL RECORDS.

PARCEL 11: (37-230-12)

SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DECEMBER 4, 1881.

EXCEPTING THEREFROM SAID LAND AN UNDIVIDED 1/16TH OF ALL COAL, OIL, OIL SHALE, GAS, PHOSPHATE, SODIUM AND OTHER MINERAL DEPOSITS IN SAID LAND, AS RESERVED IN THE PATENT FROM THE STATE OF CALIFORNIA, RECORDED IN BOOK 13, PAGE 494 OF OFFICIAL RECORDS OF SAID INYO COUNTY.

EXHIBIT A
PAGE 4 OF 6

FILE NO. 48431

PARCEL 12: (37-230-12)

SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE DECEMBER 4, 1881.

EXCEPTING THAT PORTION THEREOF LYING EAST OF STATE HIGHWAY 395 AS CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED MARCH 28, 1962 IN BOOK 150 PAGE 126 OF OFFICIAL RECORDS.

EXCEPT FROM PARCELS 5 TO 12 INCLUSIVE, ANY PORTION THEREOF THAT MAY BE INCLUDED WITHIN THE LINES OF A STRIP OF LAND 200 FEET WIDE AND A STRIP OF LAND OF VARIABLE WIDTH AS DESCRIBED IN A DECREE OF CONDEMNATION IN FAVOR OF THE CITY OF LOS ANGELES RECORDED SEPTEMBER 14, 1970 IN BOOK 192 PAGE 208 OF OFFICIAL RECORDS.

PARCEL 13: (37-230-12)

THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT FROM SAID LAND AN UNDIVIDED 1/16 OF ALL COAL, OIL, OIL SHALE, GAS, PHOSPHATE, SODIUM, AND OTHER MINERAL DEPOSITS IN SAID LAND AS RESERVED IN THE PATENT FROM THE STATE OF CALIFORNIA IN BOOK 13, PAGE 494, OFFICIAL RECORDS OF SAID COUNTY.

SAID LAND IS ALSO SHOWN AS PARCEL 2 ON RECORD OF SURVEY RECORDED IN BOOK 8 PAGE 43 OF RECORD OF SURVEYS.

PARCEL 14: (37-230-12)

THOSE PORTIONS OF SECTIONS 8, 17 AND 18, TOWNSHIP 23 SOUTH, RANGE 38 EAST M.D.B. & M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, SAID POINT ALSO ON THE EASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 395, THENCE NORTHEASTERLY ALONG SAID SOUTHERLY LINE TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, THENCE NORTH 89°54'27" EAST, 1,318.42 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 17, THENCE NORTH 2°42'53" WEST, 4,132.53 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, THENCE NORTH 0°04'26" EAST, 1,329.6 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8; THENCE NORTH 89°16'28" WEST, 1,303.50 FEET ALONG THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8; THENCE SOUTHERLY ALONG THE LINE COMMON TO SECTIONS 7 AND 8 TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 395; THENCE SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 395 TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 15: (37-230-12)

THOSE PORTIONS OF SECTIONS 17, 18, 19 AND 20 TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SOUTHWEST QUARTER OF SECTION 20, THENCE SOUTH 77°39'05" WEST, 570.43 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY

EXHIBIT A
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FILE NO. 48431

LINE OF STATE HIGHWAY 395; THENCE NORTHWESTERLY AND NORTHEASTERLY ALONG SAID EASTERLY LINE TO A POINT ON THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY LINE TO THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 89°54'27" EAST, 1,318.42 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17; THENCE SOUTH 2°41'53" EAST, 1,317.50 FEET; THENCE SOUTH 0°42'32" EAST, 2,539.98 FEET; THENCE SOUTH 0°12'04" WEST, 1,392.62 FEET TO THE TRUE POINT OF BEGINNING OF SAID PARCEL A.

PARCEL 16: (37-230-12)

THOSE PORTIONS OF SECTIONS 19 AND 20 TOWNSHIP 23 SOUTH, RANGE 38 EAST, M.D.B.&M., IN THE COUNTY OF INYO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DECEMBER 4, 1881, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19; THENCE NORTH 77°39'05" EAST, 483.77 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF STATE HIGHWAY 395 TO A POINT ON THE NORTH LINE OF SECTION 19; THENCE WEST ON SAID NORTH LINE TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 19; THENCE SOUTH 1°07'26" WEST, 2,422.39 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19; THENCE EAST, 1,324.00 FEET ALONG THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19 TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19; THENCE SOUTH 0°56'54" EAST, 1,376.82 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT A
PAGE 6 OF 6

ARNOLD BLEUEL
LAROCHELLE MATHEWS &
ZIRBEL LLP

ATTORNEYS AT LAW

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OF COUNSEL
MATTHEW P. GUASCO

writer's e-mail
smccarthy@atozlaw.com

June 4, 2009

County Clerk
County of Inyo
P. O. Box F
Independence, CA 93526

Re: Notice of Intent to File CEQA Petition

To Inyo County Clerk:

PLEASE TAKE NOTICE, under Public Resources Code Section 21167.5, that Petitioner, Little Lake Ranch, Inc., intends to file a petition under the provisions of the California Environmental Quality Act ("CEQA") against Respondents, County of Inyo, Inyo County Board of Supervisors, Inyo County Planning Commission and Inyo County Planning Department, challenging its filing of a Notice of Determination with respect to a Final Environmental Impact Report ("FEIR") in connection with Conditional Use Permit No. 2007-03/Coso ("CUP") sought by Coso Operating Company, LLC ("Coso").

The petition will seek the following relief:

- 1.A stay under Code of Civil Procedure section 1094.5, or in the alternative, a temporary restraining order and preliminary injunction, restraining Respondent and Coso from taking any action to carry out the project pending trial; and
2. The issuance of a peremptory writ of mandate directing:
 - a. The Respondent to vacate and set aside its certification and approval of FEIR and issuance of the CUP;
 - b. Respondent and Coso to suspend all activities under the FEIR and CUP that could result in any change or alteration in the physical environment of the project until they have taken all action which may be necessary to bring the approval of the FEIR in compliance with CEQA; and

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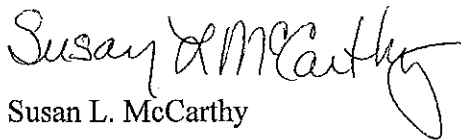
County Clerk
County of Inyo
June 4, 2009
Page 2

c. The Respondent to prepare, circulate and consider a new and legally adequate environmental impact report and to otherwise comply with CEQA and Inyo County Code, Chapters 18.77 *et seq.*, in any subsequent action taken to approve the project proposed by Coso under or pursuant to the CUP.

A copy of the petition to be filed by Petitioner is attached to this notice.

Very truly yours,

ARNOLD, BLEUEL, LAROCHELLE,
MATHEWS & ZIRBEL, LLP


Susan L. McCarthy

SLM:

cc: Little Lake Ranch, Inc.
County of Inyo
Inyo County Planning Department
Inyo County Planning Commission
Inyo County Board of Supervisors
Coso Operating Company, LLC

EXHIBIT B
PAGE 2 OF 4

1 Gary D. Arnold, Bar # 070023
garnold@atozlaw.com
2 Susan L. McCarthy, Bar # 126057
smccarthy@atozlaw.com
3 ARNOLD, BLEUEL, LaROCHELLE,
MATHEWS & ZIRBEL, LLP
4 300 Esplanade Drive, Suite 2100
Oxnard, California 93036
5 Telephone: (805) 988-9886
Facsimile: (805) 988-1937

6 Attorneys for Petitioner
7 Little Lake Ranch, Inc.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF INYO

10
11 LITTLE LAKE RANCH, INC, a California)
corporation,)

12 Petitioner.

13 v.

14 COUNTY OF INYO;
15 INYO COUNTY BOARD OF SUPERVISORS;
16 INYO COUNTY PLANNING COMMISSION;
INYO COUNTY PLANNING DEPARTMENT;
and DOES 1 through 50, inclusive,

17 Respondents.

18 COSO OPERATING COMPANY, LLC; and
19 ROES 1 through 50, inclusive,

20 Real Parties in Interest.

CASE NO.
Unlimited

PROOF OF SERVICE OF LETTER OF INTENT

21 I am employed in the County of Ventura, State of CA. I am over the age of 18 and am not a
22 party to the within action; my business address is 300 Esplanade Drive, Suite 2100, Oxnard, CA.

23 On June 4, 2009, I served the document described as LETTER OF INTENT (a copy of which
24 is attached hereto) on interested parties in this action. I placed a true copy thereof enclosed in sealed
25 envelopes addressed as follows:

26 Coso Operating Company, LLC
27 P.O. Box 1690
28 Inyokern, CA 93527-1690

Coso Operating Company, LLC
2 Gill Station Road
Coso Junction
Little Lake, CA 93542

EXHIBIT B
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Coso Operating Company, LLC
565 5th Avenue, 29th Floor
New York, New York 10017

County of Inyo
c/o Patricia Gunsolley, Clerk to Inyo County
Board of Supervisors
P.O. Box N
Independence, CA 93526

Inyo County Board of Supervisors
c/o Patricia Gunsolley, Clerk to Inyo County
Board of Supervisors
P.O. Box N
Independence, CA 93526

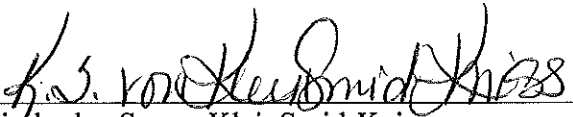
Inyo County Planning Department
c/o Patricia Gunsolley, Clerk to Inyo County
Board of Supervisors
P.O. Box N
Independence, CA 93526

Inyo County Planning Commission
c/o Patricia Gunsolley, Clerk to Inyo County
Board of Supervisors
P.O. Box N
Independence, CA 93526

By mail as follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Oxnard, 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 4, 2009, at Oxnard, California.


Kimberlee S. von KleinSmid-Kniss

Inyo County Code

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Chapter 18.77 REGULATION OF WATER TRANSFERS UNDERTAKEN PURSUANT TO WATER CODE SECTION 1810, SALES OF SURFACE WATER OR GROUNDWATER BY THE CITY OF LOS ANGELES, AND THE TRANSFER OR TRANSPORT OF WATER FROM GROUNDWATER BASINS LOCATED IN WHOLE OR IN PART WITHIN

18.77.000 Declarations and findings.

A. Importance of Water. Adequate supplies of water are vital to the economy and environment of Inyo County and the health, safety and welfare of its citizens.

B. Water Exports. The city of Los Angeles, with significant environmental, economic and social consequences, has exported substantial amounts of surface water and groundwater from Inyo County.

C. Proposed Water Transfers. In addition to water exports by Los Angeles, proposals have been made that involve the export of groundwater from Inyo County via the Los Angeles Aqueduct under Water Code Section 1810, the sale of groundwater extracted from Inyo County to the city of Los Angeles, the extraction and export of groundwater from a groundwater basin located in whole or in part in Inyo County, and the transfer or transport of groundwater extracted from within Inyo County from a groundwater basin located in part in Inyo County for use in an area within the same basin, but outside the boundaries of the county.

D. Importance of Groundwater. Groundwater underlying Inyo County has been and will continue to be an important source of water for agricultural, domestic, municipal, environmental and other purposes.

E. Water Code Section 1810 Transfers. It is the policy of the state of California to facilitate the voluntary transfer of water and water rights where consistent with the public welfare of the place of export and the place of import. Under California Water Code (hereafter Water Code) Section 1810 et seq., neither the state, nor any regional or local public agency may deny a bona fide transferor of water, as defined, the use of a water conveyance facility which has unused capacity, as defined, for the period of time for which that capacity is available, if fair compensation as specified, is paid for that use, subject to conditions specified in Water Code Section 1810 (a), (b), (c), and (d). Water Code Section 1810(d) provides that such a transfer of water may be denied if the use of a water conveyance facility will injure any legal user of water, or will unreasonably affect fish, wildlife, or other instream beneficial uses or will unreasonably affect the overall economy or the environment of the county from which the water is being transferred. Transfers of water from Inyo County undertaken pursuant to Water Code Section 1810 et seq., have the potential to affect the overall economy and/or the environment of Inyo County.

F. Inyo County/Los Angeles Water Agreement. In 1997, an agreement between the county and the city of Los Angeles, which provides for management of the city of Los Angeles' water gathering activities (including groundwater extraction and surface water diversion) within Inyo County, was entered as a final order in Inyo County superior court, Case Number 12908. (Hereinafter, "Inyo/Los Angeles Water Agreement.") The Inyo/Los Angeles Water Agreement provides for cooperative management of Los Angeles' water gathering activities by the county of Inyo and the city of Los Angeles in a manner that protects the environment of Inyo County.

G. Water Sales to Los Angeles. In January 1998, the city of Los Angeles and the county of Inyo (through the Inyo County/Los Angeles Standing Committee) agreed that "[T]he City of Los Angeles will not enter into any agreement to purchase or otherwise acquire water extracted or diverted from within Inyo County unless it has been first informed by the county that the county and the seller have entered into an agreement which provides for the management of the extraction or diversion of the water in a manner that insures the protection of the county's environment and economy, If after such notification, the city of Los Angeles enters into an agreement

Exhibit C

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with the seller to purchase water, the purchase agreement will specifically require, as a continuing condition of the purchase of any water, that the seller be in full compliance with the provisions of the agreement with the county.

H. Groundwater Transfers. A transfer or transport of groundwater from a groundwater basin located in whole or in part within Inyo County to an area outside of the groundwater basin, and a transfer or transport of groundwater extracted from within Inyo County from a groundwater basin located partially within Inyo County for use in an area within the same basin, but outside the boundaries of Inyo County, have the potential to adversely affect the economy and environment of Inyo County.

I. Authority to Regulate. Existing law provides the county with authority to protect the health, safety and welfare of its citizens, through the regulation of the extraction of groundwater from groundwater basins within Inyo County.

J. Need for Regulation. It is essential for the protection of the health, safety and welfare of the citizens of Inyo County, and the public benefit of the state, that a transfer of water undertaken pursuant to Water Code 1810, a sale of surface or groundwater to the city of Los Angeles, a transfer or transport of groundwater extracted and exported from a groundwater basin located in whole or in part within the boundaries of Inyo County, and a transfer or transport of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County, for use in an area within the same basin, but outside the boundaries of Inyo County be regulated in a manner that provides for the protection of the overall environment and economy of Inyo County. (Ord. 1004 § 2, 1998.)

18.77.005 Purpose and intent.

It is the purpose and intent of this chapter to establish an effective county policy that will assure that the overall economy and the environment of Inyo County are protected from the impacts of:

A. A water transfer from the unincorporated area of Inyo County undertaken pursuant to Water Code Section 1810 et seq.;

B. A sale to the city of Los Angeles, or an acquisition by the city of Los Angeles by means other than a sale, of surface water or groundwater extracted or diverted from within Inyo County;

C. A transfer or transport of groundwater extracted from a groundwater basin located in whole or in part within the boundaries of Inyo County, for use in an area outside of the groundwater basin; and

D. A transfer or transport of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County, for use in an area within the same basin, but outside the boundaries of Inyo County. (Ord. 1004 § 3, 1998; Ord. 943 § 4 (part), 1994.)

18.77.010 Scope.

A. Application. Any person who proposes a transfer or transport of water described in subsections (A)(1) through (4) of this section shall be subject to the provisions of this chapter:

1. A water transfer from the unincorporated area of Inyo County undertaken pursuant to Water Code Section 1810 et seq.

2. As set forth in the agreement described in Section 18.77.000 (G) a sale to the city of Los Angeles, or an acquisition by the city of Los Angeles by means other than a sale, of surface water or groundwater extracted or diverted from within Inyo County.

3. A transfer or transport of groundwater extracted from a groundwater basin located in whole or in part within the boundaries of Inyo County, for use in an area outside of the groundwater basin.

4. A transfer or transport of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County, for use in an area within the same basin, but outside the boundaries of Inyo County.

B. Exemptions. Water transferred or transported as described below shall be exempt from the application of this chapter (Chapter 18.77):

1. A transfer or transport of water by the city of Los Angeles from Inyo County, and an extraction of groundwater or a diversion of surface water from within Inyo County by the city of Los Angeles, that is not a purchase or acquisition of water subject to the agreement described in Section 18.77.000(G).

2. A transfer or transport of water during periods of emergency declared pursuant to California Government Code Section 8558 that is directly related to the reason or basis for the declaration of the emergency, and that is undertaken in order to prevent or mitigate injury to people, or the flooding or damaging of property.

3. A transfer or transport of water in the form of manufactured or processed goods or products, agricultural products, or in bottles or any other portable containers including tanker trucks, provided the total transfer or transport via tanker truck or trucks does not exceed one acre foot during a one-year period.

4. A transfer or transport of water over which the county lacks the legal authority or jurisdiction to regulate, including a transfer or transport of water extracted or diverted from outside of the boundaries of Inyo County.

C. Nonconforming Uses. A transfer or transport of water which occurs after the effective date of the ordinance codified in this chapter shall be considered a nonconforming use as set forth in Section 18.78.230 to 18.78.300 of this code if the transfer or transport meets all of the following criteria:

1. The transfer or transport is substantially similar to a transfer or transport that occurred during the one year period immediately prior to the effective date of said ordinance;

2. The transfer or transport is accomplished by means of substantially the same conveyance facility as was used during the one-year period immediately prior to the effective date of said ordinance;

3. The transfer or transport is from substantially the same geographical area of the groundwater basin as during the one-year period immediately prior to the effective date of said ordinance;

4. The transfer or transport does not exceed either the highest instantaneous rate, or the highest annual total quantity, of water that was transferred or transported within the twenty-year period immediately prior to the effective date of said ordinance; and

5. The transfer or transport will result in the use of the transferred or transported water in substantially the same manner and in substantially the same area as it was used during the one-year period immediately prior to the effective date of said ordinance.

A transfer or transport of water which does not meet all of the criteria described in subsections (C)(1) through (4) of this section (including a water transfer or transport which once met, but no longer meets all of the criteria) shall not be considered a nonconforming use, and shall be subject to the provisions of this chapter. (Ord. 1004 § 4, 1998; Ord. 943 § 4 (part), 1994.)

18.77.011 Definition of terms used in this chapter.

A. "Extraction" means the process of withdrawing groundwater by pumping or other controlled means.

B. "Groundwater" means all water below the surface of the earth within the zone below the water table, in which the soil is completely saturated with water, excluding subsurface water that flows in known and definite channels.

C. "Groundwater basin" means a groundwater reservoir, defined on the basis of geological and hydrological conditions.

D. "Groundwater basin located in whole or in part within Inyo County" means the following groundwater

basins identified in California Department of Water Resources Bulletin 118-80, "Ground Water Basins in California":

Name of Basin	Number of Basin
Owens Valley	6-12
Black Springs Valley	6-13
Fish Lake Valley	6-14
Deep Springs Valley	6-15
Eureka Valley	6-16
Saline Valley	6-17
Death Valley	6-18
Wingate Valley	6-19
Middle Amargosa Valley	6-20
Pahrump Valley	6-28
Mesquite Valley	6-29
Searles Valley	6-52
Indian Wells Valley	6-54
Coso Valley	6-55
Rose Valley	6-56
Darwin Valley	6-57
Panamint Valley	6-58
Fish Slough Valley	6-60
Cameo Area	6-61
Race Track Valley	6-62
Hidden Valley	6-63
Marble Canyon Area	6-64
Cottonwood Spring Area	6-65
Lee Flat	6-66
Santa Rosa Flat	6-68
Cactus Flat	6-70
Coles Flat	6-72
Wild Horse Mesa Area	6-73
Harrisburg Flats	6-74
Wildrose Canyon	6-75
California Valley	6-79
Middle Park Canyon Valley	6-80
Butte Valley	6-81
Spring Canyon Valley	6-82
Furnace Creek Area	6-83
Greenwater Valley	6-84
Gold Valley	6-85
Rhodes Hill Area	6-86

E. "Overdraft" means the withdrawal of groundwater from a groundwater basin in an amount in excess of the amount of water that recharges the basin over a period of years during which water supply conditions approximate average, and which, if continued over time, could eventually cause the groundwater supply to be exhausted, cause subsidence, cause the water table to drop to a level below where groundwater pumping is no

longer economically feasible, or cause a detrimental change in water quality.

F. "Person" means any natural person, and any corporation, partnership, association, public entity, municipality, and any other entity with legal existence under California law.

G. "Recharge" means flow of water to groundwater storage from precipitation, infiltration from streams, irrigation, spreading basins, and other sources.

H. "Surface water" means water in lakes, streams, ponds, rivers or reservoirs.

I. "Water table" means the surface or interface between the zone where the soil is completely saturated with water and the zone where the soil is not completely saturated with water.

J. "Water transfer or transport" means the conveyance of water via aqueduct, ditch, pipeline, flume, natural water course or tanker truck from one area to another: (1) pursuant to Water Code Section 1810 et seq., or (2) pursuant to a sale to the city of Los Angeles, or an acquisition by the city of Los Angeles by means other than a sale, of surface water or groundwater extracted or diverted from within Inyo County, or (3) that involves movement of groundwater extracted from a groundwater basin located in whole or in part within the boundaries of Inyo County for use in an area outside of the groundwater basin, or (4) that involves movement of groundwater extracted from within Inyo County from a groundwater basin partially located within Inyo County for use in an area within the same basin, but outside the boundaries of Inyo County. (Ord. 1004 § 5, 1998.)

18.77.015 Conditional use permit requirement.

Any person who proposes a transfer or transport of water described in Section 18.77.010. A. shall, prior to the commencement of the water transfer or transport, first apply for and obtain from the county planning commission a conditional use permit as provided in Chapter 18.81 of this Code. (Ord. 1004 § 6, 1998: Ord. 943 § 4 (part), 1994.)

18.77.020 Applications.

An application for a conditional use permit shall be made on forms provided by the county planning department. The application shall be filed in accord with this Chapter, Chapter 18.81, other relevant chapters of this code, and with procedures established by the county planning commission. (Ord. 943 § 4 (part), 1994.)

18.77.025 Application processing and fees.

A. Applications. An application for a conditional use permit for a water transfer described in Section 18.77.010(A) shall be processed in the same manner as other conditional use permit applications submitted to the county; however, the Inyo County water department and the Inyo County water commission (water commission) shall evaluate the hydrogeological and related environmental impacts, and based on its evaluation, shall identify and develop associated mitigation measures, proposed project conditions, the monitoring, groundwater management and/or reporting program, and proposed findings. The water commission shall submit its recommendations to the county planning commission.

B. Fees. At the time of the filing of the application for a water transfer pursuant to this chapter, a fee, as established by Section 18.81.190 of this code, shall be paid to the county planning department. (Ord. 1004 § 8, 1998: Ord. 943 § 4 (part), 1994.)

18.77.030 Required findings.

A. Findings. A conditional use permit for a transfer or transport of water described in Section 18.77.010(A)

shall be approved only if the county planning commission, in consideration of the recommendations submitted by the water commission, finds that the proposed water transfer to be undertaken (subject to proposed conditions to be placed upon the transfer) will not unreasonably affect the overall economy of Inyo County and will not unreasonably affect the environment of Inyo County.

B. Adverse Effect on the Economy or Environment. A proposed water transfer shall be found by the planning commission to unreasonably affect the overall economy of Inyo County or to unreasonably affect the environment of Inyo County if the commission finds, based on the relevant recommendations submitted by the water commission, that the proposed water transfer including all proposed conditions and mitigation measures, will cause a significant adverse effect or effects on the overall economy or the environment of the county. A determination of whether or not the proposed water transfer will have a significant adverse effect, or whether a mitigation measure or measures will reduce such a significant effect to a less than a significant level, shall be made by reference to the analytical model of the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), its guidelines and relevant case law.

C. Economy. In determining whether a proposed water transfer will unreasonably affect the overall economy of Inyo County, all relevant factors shall be considered, including, but not limited to, potential injuries to legal users of water in the groundwater basin and the county, direct or indirect economic impacts to suppliers, service providers and others in the county, impacts to the tax base of the county, and the cumulative effects of the proposed water transfer when considered together with the effects of past water transfers, past surface and groundwater exports, proposed economic mitigation measures, as well as the effects of approved or anticipated future water transfers and exports, on the county's overall economy.

D. Environment. In determining whether a proposed water transfer will unreasonably affect the environment of Inyo County, all relevant factors shall be considered, including, but not limited to, effects on fish, wildlife, and other instream uses, effects on water levels in wells, effects on springs and seeps, effects on riparian and groundwater dependent vegetation, effects on rare or endangered plant or animal species, effects on surface water features, recharge to the groundwater basin, effects on the groundwater storage capacity of the basin, potential for overdraft, potential for subsidence, effects on water quality, the capability of the proposed monitoring, groundwater management and/or reporting program to detect and avoid significant adverse impacts and the cumulative effects of the proposed water transfer within the affected groundwater basin, when considered together with the effects of past water transfers, past transfers and water exports, as well as approved and anticipated future water transfers, and water exports from the affected groundwater basin, on the environment.

E. Evidence. Each finding required to be made by the county planning commission pursuant to this chapter shall be based upon substantial evidence and shall contain a description of the evidence that supports the finding. (Ord. 1004 § 9, 1998; Ord. 943 § 4 (part), 1994.)

18.77.035 Monitoring, groundwater management and reporting.

The county planning commission, in consideration of the relevant recommendations submitted by the water commission, shall approve and incorporate, as appropriate, a monitoring, groundwater management and/or reporting program into each conditional use permit it grants for a transfer or transport of water described in Section 18.77.010(A). The monitoring, groundwater management and/or reporting program shall be of such scope and extent as the commission finds to be necessary to ensure that the proposed water transfer will not unreasonably affect the overall economy or the environment of the county. In determining the scope of a monitoring, groundwater management and/or reporting program, the ability of the proposed program to detect and avoid potential significant adverse effects before such effects occur shall be considered. The monitoring and/or reporting portion of the program shall be in compliance with Chapter 15.44 of this code. The groundwater

management and/or reporting program may include, but shall not be limited to, instream flow measurements, reports of the amounts of surface water diverted and/or amounts of groundwater pumped, monitoring of wells, monitoring of groundwater levels, monitoring of spring and seeps, monitoring of vegetation, wildlife, fish and economic effects and thresholds and/or trigger points which, if reached, will control the extraction of groundwater. (Ord. 1004 § 10, 1998: Ord. 943 § 4 (part), 1994.)

18.77.040 Procedures.

Upon completion of the environmental review process and the filing of all required documents, a noticed public hearing will be scheduled and conducted by the county planning commission to consider issuance of any conditional use permit for a water transfer or transport described in Section 18.77.010(A). Such a hearing will be scheduled and conducted in accordance with this chapter and Chapter 18.81 of this code. (Ord. 1004 § 11, 1998: Ord. 943 § 4 (part), 1994.)

18.77.045 Modifications and revocation.

A. Modification by Request. Any person who has been granted a conditional use permit for a water transfer or transport pursuant to this chapter may submit an application for a modification of the permit. Any such application shall be submitted and processed as provided in Section 18.81.140 et seq. of this code.

B. Modification for Cause. In the event that evidence obtained through the monitoring and/or reporting program, or other evidence, indicates that a water transfer subject to a conditional use permit has unreasonably affected, or has the potential to unreasonably affect, the overall economy or the environment of the county, or that there has been a failure to comply with the provisions of the permit, the county planning commission shall conduct a noticed public hearing into the matter. If at the conclusion of the hearing, the commission finds that an existing water transfer, if continued, would cause an unreasonable effect on the overall economy or the environment of the county, the commission shall modify the provisions of the conditional use permit to the extent that it finds to be necessary to avoid the occurrence of such an effect. If the commission finds that a water transfer, subject to a conditional use permit has unreasonably affected the overall economy or the environment of the county, the commission shall order the implementation of such mitigation measures as it finds to be necessary to reduce the level of the effect to less than significant; in addition, the commission may modify the conditional use permit to the extent that it finds to be necessary to avoid the occurrence of such unreasonable effects in the future.

C. Revocation. At the conclusion of the public hearing described in subsection (B) of this section, the commission may revoke a conditional use permit granted pursuant to this chapter if it finds that the water transfer cannot be continued without causing an unreasonable effect on the overall economy or environment of Inyo County, or if the commission finds that there has been a failure to reasonably comply with the terms of the permit. In the event that the commission revokes a permit, the commission may order the former permittee to implement such work as the commission finds is necessary to mitigate any significant adverse effects caused by the water transfer or transport undertaken by the former permittee. (Ord. 1004 § 12, 1998: Ord. 943 § 4 (part), 1994.)

18.77.050 Term of permit.

Each applicant for a conditional use permit pursuant to this chapter shall specify in the application the duration or term of the permit requested. The county planning commission, in consideration of the relationship of the term of the permit to the potential for the water transfer to unreasonably affect the overall economy or environment of Inyo County, shall, in accordance with Section 18.81.130 of this code, determine the term of the permit. (Ord.

1004 § 13, 1998.)

18.77.055 Challenge to water transfers and transport.

A. Existing Conditional Use Permit. Any interested party may challenge the ongoing transfer or transport of water subject to an approved permit during the term of the permit based on allegations that one or more of the following circumstances exists:

1. There has been or is an ongoing violation of one or more conditions of an approved permit; or
2. The transfer or transport of water pursuant subject to a conditional use permit has unreasonably affected the overall economy or the environment of the county.

B. No Existing Conditional Use Permit. Any interested party may challenge a transfer or transport of water that is not being undertaken pursuant to an approved conditional use permit based on an allegation that a conditional use permit for the transfer or transport of water is required pursuant to this chapter.

C. Process. A challenge pursuant to this section shall be commenced by filing with the planning commission a signed written statement setting forth the challenge on a form prescribed by the commission. The statement shall allege circumstances specified in subsections (A) or (B) of this section, and shall generally describe facts in support of those alleged circumstances. Within ten days of receipt of a challenge in compliance with the foregoing requirements, the planning department shall give notice of the challenge to the person undertaking the transfer or transport of water, the challenging party, all affected agencies, and any interested party that has requested such notice. Within forty-five days of the receipt of the challenge, the planning department shall complete a review of the facts alleged in the challenge, and based upon this review, shall make a determination whether sufficient evidence has been presented to warrant a hearing by the commission on the challenge. A notice of this determination, together with the date and time of public hearing by the commission on the challenge, if applicable, shall be provided to the person undertaking the transfer or transport of water, the challenging party, all affected agencies, and any interested party that has requested such notice. Any public hearing on the challenge shall be conducted as provided in this title.

1. If the challenge pertains to a transfer or transport of water undertaken pursuant to a conditional use permit, the commission's review shall be as set forth in Section 18.77.045.

2. If the challenge pertains to a transfer or transport of water that is not undertaken pursuant to this chapter, the commission shall determine whether such a permit is required. If the commission finds that the transfer or transport requires, and/or previously required, a conditional use permit, and if the commission finds that the transfer or transport of water caused an unreasonable effect on the overall economy or environment of Inyo County, in addition to any other penalties that may be imposed for violation of this code, the commission may order the person who undertook the transfer or transport to implement such work as the commission finds is necessary to mitigate any significant adverse effects caused by the water transfer or transport undertaken by the person.

D. Standard of Proof. The standard for proof in any such challenge proceeding shall be substantial evidence. The burden of proof shall be upon the person undertaking the transfer or transport of water.

E. Appeals. Appeals of a determination by the planning department or of a planning commission decision may be made as provided in this title. (Ord. 1004 § 14, 1998.)