

Wrac update for 6/3/09

The Stipulating parties reports for the Northern and Santa Maria areas are posted on the court website but there were no requests for approval. See links below

Title: "Notice of Filing 2008 Annual Monitoring Report For Northern Cities Management Area"

Submit Date: 04/30/2009

<http://www.sccomplex.org/cases/noticelink.jsp?FormCaseId=VAE2661C98F&FormDocId=XC491F47D2E7>

Title: "Annual Report of Hydrogeologic Conditions and Water Requirements, Supplies and Disposition, 2008, Santa Maria Valley Management Area"

Submit Date: 05/11/2009

<http://www.sccomplex.org/cases/noticelink.jsp?FormCaseId=VAE2661C98F&FormDocId=U9136B6D857B>

The Court "approved" the Nipomo area Report was based solely on the lack of objection by any settling party. There was not a finding of fact by the court. The court clearly stated that it does not apply to any litigating party's disputes with other parties litigating or settling:

5/22/09 transcript page 5:

The court: all right. Well, it seems to me pretty clear that you're correct the court did not have jurisdiction over your client in view of the appeal. However, this is totally separate and apart from your client, does not affect your client at this time. It is pursuant to an agreement between the parties who have stipulated and agreed to this process. There is no objection from any of them as to the filing and the acceptance of this report so I am going to approve it.

Oddly as the report/plan only applies to the settling parties and the settlement contains the following agreement:

Stipulation page 31:

C. De Novo Nature of Proceeding: The Court shall exercise de novo review in all proceedings. The actions or decisions of any Party, the Monitoring Parties, the TMA, or the Management Area Engineer **shall have no heightened evidentiary weight in any proceedings** before the Court.

So it's not clear that the approval really means anything.

In any case the "approval" has been appealed.

The report was posted on the court web site:

Title: "MOTION FOR COURT APPROVAL OF NMMA WATER SHORTAGE RESPONSE PLAN"

Submit Date: 04/28/2009

<http://www.sccomplex.org/cases/noticelink.jsp?FormCaseId=VAE2661C98F&FormDocId=EEBE7D1602D1>

The Status of the appeal process: The appeals of the court decisions after judgment have been combined with the Judgment appeal to be heard with the Judgment appeal.

The court clerks "could not find" about 350 documents requested for the appeal including the final Judgment even though the documents are on the court web site.

A public hearing is set for the TMA:

As reported earlier the Nipomo group had a “public hearing” on the Nipomo “NMMA water shortage response plan” which was a fraud because the public could not attend the hearing and only stipulating parties that signed the agreement to support the Santa Maria Intertie project could attend.

The TMA has taken a different interpretation of the “public hearing”

Stipulation page 14:

(ii) Within forty-five days of submission, the TMA shall hold a noticed public hearing to take comments on and consider for adoption the Annual Report.

And I think will be having real public hearing, see following notice in the 6/2/09 Santa Maria Times:

“ Water hearing set for June 10, A Twitchell Management Authority public hearing and report is scheduled for June 10 in the Santa Barbara County Board of Supervisor's Hearing Room in Santa Maria at 511 E. Lakeside Parkway At 6:30p.m., Joseph Scalmaninim, Santa Maria Valley Management Area engineer, will present the 2008 Annual Report of Hydrogeologic Conditions Water Requirements, Supplies and Disposition - a stipulation in the Santa Maria Valley Water Conservation District, City of Santa Maria, etal lawsuit in June 2005. **Members of the TMA will also be on hand to answer questions.** The report is available at the city's Utilities Department administration office, 2065 E. Main St. or www.sccomplex.org/home/index.htm. Written comments, accepted through 5 p.m. June 19, can be sent to: Twitchell Management Authority, 2065 East Main ST., Santa Maria, 93454. For more information, call 925-0951 ext. 7270.

Another of the many conflicting portions of the settlement has been noted in the TMA report:

The settlement requires Santa Maria to use all their state water in the Santa Maria Valley and at the same time Santa Maria mixes any groundwater with the State water for their supply which if transported to Nipomo in the Water Intertie project would result in State water being used outside the Santa Maria Valley. In the report it is stated as follows:

TMA report page 30:

Beyond components of the overall monitoring program, recommendations for additional investigation that derive from this first annual report most notably include:

- investigation of the commitments in the Stipulation to comply with the MOU between the City of Santa Maria and the Nipomo CSD for delivery of water from Santa Maria to Nipomo, notably to support the assumption that there is surplus water in the SMVMA that can be exported to the NMMA, to analyze the impacts related to groundwater that will be part of an export from the SMVMA, and to resolve the apparent **conflict between the Stipulation and the MOU with regard to minimum importation of SWP water and its use within the SMVMA.**

There is no consistent interpretation of terms in the settlement, in the reports there are two different interpretation of “water supply”, for the TMA (Santa Maria Valley) The Stipulation States:

Stipulation page 9:

D. Groundwater Monitoring

1. Monitoring Program. A Monitoring Program shall be established in each of the three Management Areas to collect and analyze data regarding water supply and demand conditions. Data collection and monitoring shall be sufficient to determine land and water uses in the Basin, sources of supply to meet those uses, groundwater conditions including groundwater levels and quality, the amount and disposition of Developed Water supplies, and the amount and disposition of any other sources of water supply in the Basin.

In Nipomo report on the “supply” was defined in the “conventional” way as the amount of rain water that percolates into the groundwater basin plus subsurface flows and for 2008 was reported as:

Page 33 “The TG has made a preliminary review of the data available for year 2008 and based on the methodology developed during Phase III, estimated that recharge from rainfall is 5,700 AF and net subsurface flow is 1,600 AF ³. Thus the total estimated recharge for 2008 is 7,300 AF.

³ These estimates are based on the best currently available data and will be subject to review in subsequent Annual Reports.”

There seems to be no corresponding number in the TMA report, only the source of the supplies used (groundwater or Imported water) **So there is no way to look at the total supply of the basin or the supply minus the demand of the basin with the monitoring done by the settlement process.**

Page 30:

**Table 5.1-1
Summary of 2008 Water Requirements, Water Supplies and Disposition
Santa Maria Valley Management Area
(in acre-feet)**

Water Requirements			Water Supplies			
Agricultural	Municipal	Total	Groundwater	Imported SWP Water	Total	
108,800	24,500	133,300	125,100	8,200	133,300	
Disposition						
Agriculture		Municipal				
Consumption	Return Flows	Consumption	Waste Water			
88,700	20,100	11,000	13,500			
			Tmt. Plant Consump.	Return Flows	Disposal To Irrig.	Injection
			1,350	10,030	2,020	100