

12/5/12 WRAC Santa Maria Groundwater update, John Snyder

SIXTH APPELLATE DISTRICT Decision: <http://www.courts.ca.gov/opinions/documents/H032750.PDF>

Court Reversed denial of Landowners request for Quiet Title to superior Overlying rights :

“The judgment is reversed. The matter is remanded to the trial court with instructions to modify the judgment as follows:

As to of those appellants that pleaded quiet title causes of action, the court shall declare their overlying rights to native groundwater prior to the rights of all appropriators less the amount to which the City of Santa Maria and Golden State Water Company are entitled pursuant to their prescriptive rights”

Purveyors claim that the landowners had “alleged rights” or “no rights” has been reversed to landowners having superior rights to purveyors.

Purveyors claim that Quiet Title would not protect Landowners future rights has been reversed to Landowners superior flexible overlying rights being protected in the future.

Court Reversed “Twitchell Yield” from settlement of 32,000 AFY to the actual amount:

“As to respondents’ rights to groundwater added to the Basin by operation of the Twitchell project (the Twitchell Yield), the trial court shall modify the judgment to clarify that such rights shall not invade appellants’ overlying rights.”

Note: Phase 3 decision points to evidence of an total average number like 12000 AFY*¹ in some years the number is much larger and in dry years it will be much lower.

Ramifications:

Northern’s claimed to a 7,300 AF “pumping right” was reduced by 6400AF surface water from lopez and SPW resulting in a “pumping right” of only 900 AF.

“Twitchell Yield” is an example of Judgment Overlying rights “trumping” settlement contract terms.

The “Twitchell Yield” change is “material” and opens the clauses to allow parties to exit the settlement*².

Future Protection in of flexible overlying rights

The Overlying right is a priority right to water needed at time of use, not a percentage of total water or amount of water. Landowners have a priority over purveyors to increase pumping as needed in the future

Overall result: In a real shortage Santa Maria could be cut down to a low number during a real shortage, and not have water for Nipomo.

Twitchell	0 AF
Groundwater pumping to about (prescription)	500 AF
State water, which could be around 10% or	2000 AF
And the return flow of that (50% when dry) of	1,000 AF

For a total of 3,500 AF, Which is a lot less then their claimed 49,000 AF/Y supply

Table 5-1
Supply Reliability for the City of Santa Maria for Year 2035 (Based on Historic Conditions)

Source	Normal Water Year	Single-Dry Water Year	Multiple-Dry Water Years			
			Year 1	Year 2	Year 3	Year 4
Imported Water from SWP ⁽²⁾	10,692	1,960	6,415	6,415	6,415	6,415
Groundwater Available from Twitchell Yield ⁽³⁾	14,300	14,300	14,300	14,300	14,300	14,300
Groundwater ⁽⁶⁾	12,795	12,795	12,795	12,795	12,795	12,795
Return flows from SWP water ^(4,5)	6,950	1,274	4,170	4,170	4,170	4,170
Exchanges In	5,000	5,000	5,000	5,000	5,000	5,000
Total	49,737	35,329	42,680	42,680	42,680	42,680
Percent of Normal/Average		71	86	86	86	86

Notes

1. Unit of measure: ac-ft/yr
2. Single-dry year and multiple-dry year reliability for imported water is 11 and 36 percent, respectively, of contracted amount.
3. Granted under the Stipulation, subject to and adjustments that could be ordered by the Court
4. Return flows are based on five-year rolling average of imported water. Single-dry year impacts will not affect availability of return flows for previous five-year average.
5. Multiple-dry year reliability of return flows considers the previous five-year rolling average of SWP imports. These projections assume five years of normal water years before the beginning of the multiple-dry year period.
6. Long-term operation of the groundwater basin under the Stipulation and storage of imported water from the SWP will allow increased groundwater production in years where actual imported water supplies are limited.
7. Table format based on DWR Guidance Document Table 28.

Foot Note *¹: Phase 3 decision page 11: on amount of yield from Twitchell and Lopez is about 13,000 AF/Y from the difference in the two yield numbers below, Scalmanini numbers come out with a similar result.

“Mr. Foreman opined that safe yield is approximately 136,000 plus acre-feet per year based upon the so-called unimpaired conditions, that is, without Twitchell, Lopez or imported water and based upon the so-called impaired or historical conditions, his opinion is that safe yield is 149,000 plus acre-feet per year.”

Foot Note *² The Settlement sections that allow parties to exit:

V. PHYSICAL SOLUTION: PROVISIONS SPECIFIC TO SANTA MARIA VALLEY MANAGEMENT AREA

A. Water Rights to Sources of Supply

3. Developed Water

(b) Twitchell Water.

(i) Amount. The Twitchell Project annually provides a variable amount of Developed Water that augments the Groundwater in the Santa Maria Valley Management Area. **Twitchell Yield is thirty-two thousand acre-feet per year (“afy”).**

IX. RESERVED JURISDICTION – ALL MANAGEMENT AREAS

A. Reserved Jurisdiction; Modifications, Cancellations, Amendments

Jurisdiction, power and authority are retained by and reserved to the Court as set forth in this Paragraph. Nothing in the Court's reserved jurisdiction shall authorize modification, cancellation or amendment of the rights provided under Paragraphs III; V(A, E); VI(A, B, D); VII(2, 3); VIII(A); IX(A, C); and X(A, D) of this Stipulation.

X. MISCELLANEOUS PROVISIONS – ALL MANAGEMENT AREAS

A. Unenforceable Terms

The Stipulating Parties agree that if any provision of this Stipulation or the judgment entered based on this Stipulation is held to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect; provided, **however, any order which** invalidates, voids, deems unenforceable, or **materially alters those Paragraphs enumerated in Paragraph IX(A) or any of them, shall render the entirety of the Stipulation and the judgment entered based on this Stipulation voidable and unenforceable,** as to any Stipulating Party who files and serves a motion to be released from the Stipulation and the judgment based upon the Stipulation within sixty days of entry of that order, and whose motion is granted upon a showing of good cause.

