

1/5/14 WRAC Santa Maria Groundwater update
Report on hearing for appeal remand in the lower court on 1/17/14

Santa Maria Groundwater Basin Status:

“Those (water shortage) conditions do not now exist and are very, very unlikely to occur”
(1/10/14 Purveyor brief)

“unlike the rest of the state, there is an abundance of water in the basin”
(1/17/14 Purveyor attorney in oral argument”)

Question 1, Given the remained order to Quiet Title, What’s the nature of prescription?

Landowners claim:

Quiet title requires an amount from each parcel must be determined and that would be done by having purveyors provide the pumping numbers from the 1950’s prescriptive period and placing them in the formula to calculate each parcels loss.

Purveyors claim:

That Quiet Title does not require an amount from each parcel be determined until there is a future overdraft.

That the pumping numbers that are to be placed in the formula would be future pumping numbers.

And because “unlike the rest of the state, there is an abundance of water in the basin” and it is very unlikely that the calculation would ever need to be made that the court should not spend any time now.

Question 2 Twitchell language modification:

“ No Party established a pre-Stipulation priority right to any portion of that increment of augmented groundwater supply within the Basin that derives from the Twitchell Project's operation.” Current Judgment 5:6-8

Landowners want the appellate language added to the Judgment verbatim

“Respondents (Stipulating parties) rights to groundwater added to the Basin by operation of the Twitchell Project (the Twitchell Yield), shall not invade appellants' (landowners) overlying rights.”

Purveyors want to flip the language to guarantee the purveyors rights

“Those stipulating parties holding rights to Twitchell Project Yield pursuant to the Stipulation are collectively entitled to an exclusive priority right to pump that amount of salvaged water resulting from the operation of the Twitchell Project Dam and Reservoir that has augmented the basin supply. The exclusive priority held by Stipulating Parties holding rights to the Twitchell Project Yield applies only to the Twitchell Project Yield and they shall not exercise those rights in a manner that invades any Non-Stipulating Party’s rights to native Basin ground water”

Question 3 added by purveyors:

The Judgment already states:

“(a) The Northern Cities have a prior and paramount right to produce 7,300 acre-feet of water per year from the Northern Cities Area of the Basin; and (b) the Non-Stipulating parties have no overlying, appropriative, or other right to produce any water supplies in the Northern Cities Area of the Basin.”

In the appeal the landowners argued that the “Northern Cities” language was unclear. The appellate court made it was clear that the 7300 AF was 6400 AF of surface water and 900 AF of groundwater. Then the appellate court proceeded in the remand to have the following language add to the judgment.

“the court shall declare their overlying rights to native groundwater prior to the rights of all appropriators”

Northern cities attorney what’s to add language to try to limit the prior overlying rights to just the Nipomo and Santa Maria area.

Question 4 added by purveyors:

During trial landowners argued that parcel legal descriptions should be in the judgment. Purveyors argued they should not. The Judgment does not have legal descriptions.

Now purveyors argue that a new list of legal descriptions must be added to the judgment

The court has about 90 days to make a decision, but can ask for more briefings that could change the schedule.

John Snyder