

## 12/3/14 WRAC Santa Maria Groundwater update by John Snyder Santa Maria Groundwater Basin Status

Santa Maria Groundwater Basin Status:

### Letter from the 3 Cities of the Northern Cities uses the term "Overdraft":

"The current state of overdraft in the NMMA created by the NCS D....."

<http://ncsd.ca.gov/wp-content/uploads/2014/06/E3.pdf>

### Golden State Attorney, on overdraft and prescription at the August 20<sup>th</sup> court hearing:

**"There's nothing in the judgment that protects them from future prescriptive right claims.**

Found in August 20, 2014 transcript:

### The standard of notice, Judge Komar said the following about notice of overdraft:

"The conditions of **depleted water levels** within the basin, **during the drought** years, were themselves well known, or should have been known, to all who used water within the basin. In short, the parties hereto and their predecessors in interest were **on notice** of the wide **fluctuation** in the water levels in the aquifer **by virtue of the fluctuating well levels, [and] the actions of political leaders** ....."

Judge Komar ruled Phase 4 Statement of Decision page 10:13-17

Regardless of whether the documents are admissible under an exception to the **hearsay** rule, the court is relying on these documents not for the truth of the matter asserted, but to show actual or constructive notice of overdraft conditions ..... Even if such documents were shown to be inaccurate, **inaccuracy does not negate notice**. It is the existence of these documents, and the notoriety of groundwater conditions in the community, that creates notice, not the accuracy or inaccuracy of the documents.

Judge Komar ruled Phase 4 Statement of Decision page 10:28, Footnote 4

### Landowner comply with Komar decision, request protection of the basin and from prescription:

"certain parties to this litigation have alleged the existence of overdraft in a portion of the basin and that in order **to protect** LOG Parties' **rights and the basin** itself, **this Court should set an evidentiary hearing** pursuant to this Court's powers under continuing jurisdiction **to resolve whether or not an overdraft actually exists** in the Santa Maria Groundwater Basin."

<http://www.scefiling.org/document/document.jsp?documentId=101284>

### NCSD, Santa Maria and Golden State Water Company:

A single sentence in an informal communication does not provide this Court with the evidence necessary to entertain the Motion.

Further, the Santa Maria Groundwater Basin ("Basin") hydrology was litigated as a single hydrologic unit. Site-specific, **anecdotal allegations of "overdraft" cannot support a Basin-wide fact-finding exercise**. LOG is concerned about renewed **prescriptive right claims that can only be predicated on Basin-wide overdraft conditions**. The Motion does not offer any evidence that the Basin as a whole is in an overdraft condition. Because Basin-wide overdraft has not been alleged, a Basin-wide evidentiary hearing is unwarranted.

<http://www.scefiling.org/document/document.jsp?documentId=101605>

### The 3 Cities:

"There is no need for a third Basin-wide overdraft trial. **No one has alleged, much less proved, an overdraft throughout the Basin.** The 3 Cities quoted by LOG (Arroyo Grande, Pismo Beach, and Grover Beach), only alleged an overdraft in the Nipomo Mesa. (Letter, LOG Attachment B1.) **The LOG landowners have not demonstrated or even alleged any harm to their wells or water supplies** in the Nipomo Mesa, and they have no wells or water rights in the Northern Cities Management Area. (Amended Judgment dated 4/23/14, ¶ 4.) An overdraft trial would be lengthy and expensive, but would not solve the Nipomo Mesa water supply problems."

### 2. Action Is Needed to Cure the Nipomo Mesa Overdraft

The Nipomo Mesa's excessive pumping not only harms water supplies in the Mesa, it cut off the groundwater inflow from the Nipomo Mesa to the Northern Cities (NMMA 2009 Annual Report, filed 6/28/10, page 43), historically approximately 1,300 acre-feet/year, and it threatens seawater intrusion that could contaminate the water supplies of the entire Basin.

Rather than relying upon parties' letters, the Court may confirm these alarming facts in the Nipomo Mesa Management Area's 2013 Annual Report, filed on April 30, 2014:

1. "Groundwater levels in all but one of the coastal wells reached **historical low elevations** during 2013." "The area of the depression has increased and the surrounding groundwater elevations have declined, as compared to 2012." (Page 41)
2. Only Phase 1 of the pipeline project from Santa Maria is under construction by the Nipomo Community Services District ("NCSD"), but it **will only supply 650 AFY**. The remaining phases of the project are not even funded. (ES 2.)
3. "The total estimated 2013 calendar year groundwater production is 16,350 acre-feet." (Id.) However, the Dependable Yield for the Mesa is only 4,800-6,000 AF/yr. (Page 57.) Thus, Mesa pumpers are **extracting nearly 4 times the Mesa's Dependable Yield**.
4. "The contour maps also show a **landward gradient** from the coast, an indication that groundwater flow is from the ocean area toward inland areas" which **"increases the potential for seawater intrusion."** (Pages ES 2 and 42.)
5. "Pumping Depression – ... The groundwater depression widened to the west and lengthened to the north. The groundwater divide thus dissipated, resulting in a landward groundwater gradient from the coastal portion of the NMMA toward the inland. This reversal of groundwater gradients **creates conditions favorable for seawater intrusion.**" (Page 53.)

The June 30, 2005 Settlement Stipulation, which is incorporated in the Judgment, required NCSD and other water purveyors in the Nipomo Mesa to purchase from the City of Santa Maria and import via a new pipeline a "minimum" of 2,500 acre-feet per year of supplemental water. (Settlement Stipulation, pages 21-22.) But NCSD is now constructing only Phase 1 of the pipeline project, which will import only approximately 650 acre-feet per year – less than 10% of the Mesa overdraft (approximately 10,000 acre-feet per year) – far from a cure. And there isn't even funding for the remaining phases. (Annual Report, ES 2.)

The 2005 Settlement Stipulation provides that, if the 2,500 acre-feet/year of water cannot be delivered to the Nipomo Mesa, "any Stipulating Party may apply to the Court, pursuant to noticed motion, for appropriate modifications to this portion of the Stipulation and the judgment..." (Id. at 22-23.) Since 2009, the Northern Cities have repeatedly asked the public water suppliers in the Nipomo Mesa to negotiate, develop, and implement solutions to the Mesa overdraft. Unfortunately, most of those parties did not even respond, **while the harm to the groundwater supply continues to grow.** Consequently, the Court's assistance is necessary. **We now request that the Court order** the Nipomo Mesa public water suppliers to promptly confer with the Northern Cities to jointly develop solutions to these problems, and to report back to the Court in writing prior to a **hearing to be set in January 2015.**

<http://www.scefiling.org/document/document.jsp?documentId=101689>