

ATTORNEYS AT LAW
ESTABLISHED 1920
555 CAPITOL MALL
10TH FLOOR
SACRAMENTO, CA 95814-4666
TELEPHONE (916) 441-0131
FAX (916) 441-4021

KEVIN M. O'BRIEN

December 10, 1996

VIA FEDERAL EXPRESS

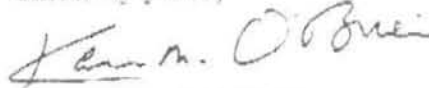
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Attn: Docket Office

Re: Application A 96-11-007 of Southern California Water Company

Enclosed for filing in the above-referenced proceeding are an original and seven copies of the Protest of the Santa Maria Valley Water Conservation District.

Sincerely yours,



KEVIN M. O'BRIEN

KMO:tm

Enclosures

cc: Stewart Johnston

FROM : JAMES & DOROTHY DALE

PHONE NO. : 8059374392

Dec. 18 1996 06:26PM P2

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of the Application of)	
SOUTHERN CALIFORNIA WATER)	
COMPANY (U 133 W) for an order)	Application
pursuant to Public Utilities Code)	A 96-11-007
§ 454 and § 1001 <i>et seq.</i> to participate)	
in the State Water Project and to)	PROTEST OF THE SANTA MARIA
recover all present and future costs under)	VALLEY WATER CONSERVATION
contract with the Central Coast Water)	DISTRICT
Authority and other related costs)	
to deliver water to its Santa Maria District)	

The protest of the Santa Maria Valley Water Conservation District, (110 South Lincoln Street, Santa Maria, California 93455; (805) 925-5212), in response to the above-referenced Application of the Southern California Water Company ("SCWC"), respectfully shows that:

THE WATER SUPPLY SITUATION
IN THE SANTA MARIA VALLEY

1. The Santa Maria Valley Water Conservation District ("District") is a public entity organized and existing under the Water Conservation District Law of 1931, Water Code Section 74000 *et seq.* The District was formed in 1937 for the purpose of constructing a dam on the Cuyama River in order to augment recharge of the Santa Maria Valley Groundwater Basin ("Basin").

2. Twitchell Dam, a groundwater recharge project for the Santa Maria Valley, was authorized by the federal government as a U.S. Bureau of Reclamation ("Bureau")

W-56799.1

1

FROM : JAMES & DOROTHY DALE

PHONE NO. : 8059374392

Dec. 18 1996 06:26PM P3

project in the mid-1950s and approved by the voters of the District in 1956. The Dam was completed in 1959 and has been operated by the District, under contract with the Bureau, since that time.

3. In September 1995, the District adopted an initial groundwater management plan ("Plan") for the Basin pursuant to Water Code § 10753 *et seq.* The principal thrust of

project in the mid-1950s and approved by the voters of the District in 1956. The Dam was completed in 1959 and has been operated by the District, under contract with the Bureau, since that time.

3. In September 1995, the District adopted an initial groundwater management plan ("Plan") for the Basin pursuant to Water Code § 10753 *et seq.* The principal thrust of the initial Plan is to gather and assimilate data as to water quantity and water quality conditions in the Basin. Following completion of this data collection phase, the District intends to amend the Plan to adopt specific measures to improve water quality and water quantity conditions in the Basin.

4. Subsequent to adoption of the Plan, the District retained the consulting engineering firm of Luhdorff & Scalmanini to review existing data and report on water quantity and water quality conditions in the Basin. The initial phase of the Luhdorff & Scalmanini work has now been completed.

5. Opinions differ as to current water quantity conditions in the Basin. According to the testimony of Thomas M. Stetson submitted by SCWC in support of its Application, the "Basin is in overdraft, by as much as 20,000 to 30,000 acre-feet per year." (Stetson Testimony, p. 5). Groundwater level data reviewed by Luhdorff & Scalmanini, however, do not support Mr. Stetson's conclusion in this regard; such data indicates that groundwater levels in the Basin have been stable, on a long-term basis, since approximately 1967.

W-156799.1

2

6. Data reviewed by Luhdorff & Scalmanini indicates that water quality in portions of the Basin is more degraded than previously believed. Specifically, there has been substantial increases in concentrations of total dissolved solids ("TDS") and nitrates beneath the so-called "confined area" of the Basin which lies from the eastern edge of the confinement area west of the City of Santa Maria to the City of Guadalupe. Concentrations of TDS in the confined area range from 1000 parts per million (ppm) to more than 4000 ppm in one well.

7. SCWC is not the only municipal purveyor in the Santa Maria Valley that has contracted to purchase water from the State Water Project ("SWP"). The Cities of Santa Maria and Guadalupe have made similar contractual commitments. The current and projected water use by the two cities is as follows:

a. City of Santa Maria. The City's current sole source of supply is groundwater pumped from the Basin. The City pumps approximately 12,000 acre-feet per year of groundwater from its 10 water wells. By 1998 the City hopes to decrease its groundwater production by as much as 70 percent to about 4,000 acre-feet per year and use 10,000 acre-feet per year of imported water. The City's projected annual water use for 1998 is approximately 14,000 acre-feet. The City's portion of the SWP entitlement is 16,200 acre-feet per year, plus a drought buffer amount of 1,620 acre-feet per year, for a total SWP entitlement of 17,820 acre-feet per year.

b. City of Guadalupe. The City of Guadalupe's current sole source of water is groundwater pumped from the Basin. The City currently produces approximately

W-156799.1

3

600 acre-feet per year from the Basin. The City's portion of the SWP entitlement is 550 acre-feet per year, plus a drought buffer amount of 55 acre-feet per year, for a total SWP entitlement of 605 acre-feet per year. The City intends to utilize as much of its SWP entitlement as possible. The City's projected annual water use is 700 acre-feet for 1998.

8. District is informed and believes and thereon alleges that SCWC and the Cities of Santa Maria and Guadalupe (hereinafter collectively "Municipal Purveyors") currently are considering adoption of their own groundwater management plan for the Basin. Among other things, the plan as currently envisioned would identify water quality and quantity objectives for the Basin; provide for data collection; identify projects to enhance natural recharge; identify measures to protect groundwater quality; and identify water conservation practices for the area. The plan would provide for maximum use of imported water in-lieu of groundwater by all plan participants and for transfer of imported water supplies among plan participants to maximize imported water use in-lieu of groundwater. Significantly, the plan would purport to identify each participating entity's share of the Basin's safe yield and provide that such share may be transferred for purposes of groundwater mitigation in exchange for binding commitments to utilize imported water in-lieu of groundwater.

9. Overlying landowners, who generally have paramount rights to the Basin's native yield, are concerned that the Municipal Purveyors' intermittent use of imported surface water and groundwater may impair their overlying rights. The Municipal Purveyors, as appropriators, have groundwater rights that are generally subordinate to the

W-156799.1

overlying rights in the Basin. Under the Municipal Purveyors' proposed in-lieu program; however, they and other appropriators could assert a right to resume or increase pumping in dry years, thereby reducing the water available for overlying users.

APPROVAL OF THE PENDING APPLICATION WOULD BE IMPROPER SINCE THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROPOSED ACQUISITION AND USE OF STATE WATER PROJECT WATER BY SCWC AND OTHER MUNICIPAL PURVEYORS, AND THE EFFECTS OF "BANKING" SUCH WATER IN THE BASIN, HAVE NOT BEEN ANALYZED IN ACCORDANCE WITH CEQA.

10. The California Environmental Quality Act (Public Resources Code §§ 21000-21176; hereinafter "CEQA") provides that local agencies must prepare an environmental impact report on any project they intend to carry out which may have a significant effect on the environment. Pursuant to Rule 17.1 of its Rules, the Public Utilities Commission has committed itself to adhere to the principles, objectives, definitions, criteria and procedures of CEQA and the CEQA Guidelines.

11. In accordance with Rule 17.1 of the Commission's Rules, the proponent of any project subject to the rule is required to include with the application for such project an environmental assessment known as the Proponent's Environmental Assessment or "PEA." The PEA is used by the Commission to focus on any impacts of the project which may be of concern and to prepare an Initial Study to determine whether an Environmental Impact Report is required. District is informed and believes and thereon alleges that SCWC has not submitted a PEA in this proceeding.

W-156799.1

12. The testimony submitted by SCWC in connection with the Application makes clear SCWC's intent to "bank" water in the Basin in connection with the delivery of SWP water (e.g. Stetson Testimony, pp. 24, 34) and to participate in transfers of water from one region of California to another (Slater Testimony, p. 26). While the details of these

banking and transfer proposals have not been disclosed, apparently SCWC intends to assert

FROM : JAMES & DOROTHY DALE PHONE NO. : 8059374392 Dec. 18 1996 06:29PM P7

12. The testimony submitted by SCWC in connection with the Application makes clear SCWC's intent to "bank" water in the Basin in connection with the delivery of SWP water (e.g. Stetson Testimony, pp. 24, 34) and to participate in transfers of water from one region of California to another (Slater Testimony, p. 26). While the details of these banking and transfer proposals have not been disclosed, apparently SCWC intends to assert a right, or "credit," to Basin supplies based on groundwater pumping foregone as a result of SWP deliveries.

13. To date, there has been no review of the environmental impacts associated with the banking of water in the Basin by SCWC or of the cumulative impacts of such banking by some or all of the Municipal Purveyors. The Final Environmental Impact Report for the State Water Project Coastal Branch, Phase II and Mission Hills Extensions, does not address the impacts associated with banking of water in the Basin.

14. Banking of water in the Basin may have significant effects on the environment, including but not limited to the following:

a. To the extent that water is banked in the Basin for future delivery during drought to the Municipal Purveyors or to other SWP Contractors, drought-year pumping from the Basin may exceed historical pumping levels, potentially injuring overlying users through drawdown effects and potentially exacerbating water quality problems that currently exist in the Basin.

W-156799 1

6

FROM : JAMES & DOROTHY DALE

PHONE NO. : 8059374392

Dec. 18 1996 06:29PM P8

b. Absent an agreement with the District and other interested parties specifying the operational elements of a banking program, any attempt by SCWC or the other Municipal Purveyors unilaterally to bank water in the Basin will frustrate and impair the District's efforts to develop a comprehensive management plan for the Basin, to the detriment of Basin water quality and quantity.

c. Banking of water may have growth-inducing impacts, as well as secondary impacts of growth, in the Santa Maria Valley and elsewhere which have not, at this juncture, been subject to environmental review.

**SCWC HAS FAILED TO DEMONSTRATE A
REASONABLE NEED FOR SWP WATER**

15. As already discussed, data reviewed by Luhdorff & Scalmanini indicates that groundwater levels in the Basin have been stable, on a long-term basis, since approximately 1967. The assertion by Mr. Stetson on behalf of SCWC that the Basin is in overdraft to the extent of 20,000-30,000 acre-feet per year is not supported by the data. If the Basin is not in overdraft but is instead in surplus, the following question arises: why should the ratepayers of SCWC pay for water that it does not need? SCWC has failed to meet its burden to demonstrate a reasonable need for SWP water.

SERVICE OF PROTEST

16. Applicant, and other interested parties, as shown on the attached certificate of service, have been served with a copy of this protest by mail.

W-156799 1

7

FROM : JAMES & DOROTHY DALE

PHONE NO. : 8059374392

Dec. 18 1996 06:30PM P9

17. District will furnish a copy of this protest to any other interested party upon written request.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Distribution List

City of Santa Maria
110 E. Cook Street
Santa Maria, CA 93454

Nipomo Community Services District
148 S. Wilson
Nipomo, CA 93444

Mr. James Dale
Orcutt Area Advisory Group, Inc.
P O. Box 2173
Orcutt, CA 93457

City Clerk and City Attorney of the following cities:

City of Santa Maria
110 E. Cook Street
Santa Maria, CA 93454

City of Guadalupe
918 Obispo Street
Guadalupe, CA 93434

County Clerk and County Counsel of the Following Counties

County of Santa Barbara
511 East Lakeside Parkway
Santa Maria, CA 93455

County of San Luis Obispo
County Government Center, Room 385
San Luis Obispo, CA 93408

Mr. C. Ronald Hicks, Manager
Regents of the University of California
Facilities, Design, Construction and
Management
300 Lakeside Drive, Room 1251
Oakland, CA 94612

Hershel T. Elkins
Asst. Attorney General
State of California
300 South Spring Street
Los Angeles, CA 90013

California Department of General Services
Office of Buildings and Grounds
1304 "O" Street, Suite 300
Sacramento, CA 95814

LAFCO
County Admin. Office #370
County Government Center
San Luis Obispo, CA 93482

Patricia A. Schmiede, Esq.
O'Melveny & Myers
Embarcadero Center West
275 Battery Street, 26th Floor
San Francisco, CA 94111-3305

Scott Slater
Hatch & Parent
21 E. Carillo Street
Santa Barbara, CA 93463

W-156968.1