



**FILED**

03-24-08

09:48 AM

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  
29

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Golden  
State Water Company (U 133W) for an  
Order pursuant to Public Utilities Code  
Section 851 approving a Settlement in a  
Water Rights Adjudication, and for an  
Order Pursuant to Section 454 approving  
the proposed Ratemaking Treatment of  
the costs of the Adjudication and  
Settlement

Application 06-02-026

**COMMENTS OF  
GERALD TRIMBLE, RATE PAYER ACCOUNT #317879-5  
RELATIVE TO THE PROPOSED DECISION DISMISSING  
APPLICATION 06-02-026 WITHOUT PREJUDICE**

Gerald Trimble  
4586 Cameo Place  
Santa Maria, CA 93455-4247  
805-937-2518 (Phone)  
[jerryT@linkline.com](mailto:jerryT@linkline.com)

March 18, 2008

## TABLE OF CONTENTS

|    |  |    |
|----|--|----|
| 1  |  |    |
| 2  |  |    |
| 3  | Title Page.....  | 1  |
| 4  |  |    |
| 5  | Table of Contents.....   | 2  |
| 6  |  |    |
| 7  | Table of Authorities.....  | 3  |
| 8  |  |    |
| 9  | 1. Introduction.....   | 4  |
| 10 |  |    |
| 11 | 2. Background.....   | 4  |
| 12 |  |    |
| 13 | 3. Comments.....   | 5  |
| 14 | 3.1 Historical Review of Stipulation Consideration.....                  | 6  |
| 15 | 3.2 Discussion.....  | 7  |
| 16 | 3.3 Stipulation Issues .....   | 8  |
| 17 | 3.3.1 “Just and Reasonable” Issues.....                                  | 8  |
| 18 | 3.3.2 “Rate Payer Risk” Issues.....                                      | 9  |
| 19 | 3.3.3 “Conflict of interest” Issues .....                                | 10 |
| 20 | 3.3.4 “Misrepresentation” Issues.....                                    | 10 |
| 21 |  |    |
| 22 | 3.4 Ongoing Litigation Fee Charge to Rate Payers.....                    | 12 |
| 23 |  |    |
| 24 |  |    |
| 25 | 4. Conclusion.....   | 12 |
| 26 |  |    |
| 27 | 5. Definitions.....  | 14 |
| 28 |  |    |
| 29 | Appendix A - Suggested Findings of Fact, Conclusions of Law and Order... | 15 |

**TABLE OF AUTHORITIES**

Page

**Rules of Practice and Procedure**

Rule 13.9 .....3

Rule 14.3 .....4, 8

**Commission Decisions**

D.07-05-041 .....4, 5, 6, 7 12

D.08-02-032 ..... 4

**Public Utilities Code**

[§ 851](#).....1, 4, 6

§ 1701.5.....4, 7

**Water Code**

[§ 1200](#) .....10, 11, 12

[§ 1260](#).....11

[§ 1628](#).....11

[§ 1675](#).....11

[§ 74526](#).....11

[§ 74501](#).....11

[§ 74592](#).....11

**Evidence Code**

§ 452.....3

**Documents in the Record of this Proceeding**

[Dismiss Motion](#) filed October 23, 2007 (with below attachments).....5, 7, 8, 14

[2005 SBC Water Agency Groundwater Report](#), Santa Maria Basin .....8

Court’s Partial Statement of Decision Phase 4 #[LBE3B74C664D](#).....9

Court’s Statement of Decision Phase 5 #[P7E3B93E7146](#).....9

GSWC Court Pleading Document #[SEB719F349B7](#).....11

GSWC Court Pleading Document #[SD07172777DC](#).....10

GSWC Stipulation #[E9A360BA945C](#)..... 2, 4 -13

**Document - Official Notice of Facts (RPP 13.9-Evidence Code §452(d))**

Court’s Judgment after Trial #[ZE16528D17E8](#).....9, 12, 13

1 **1. INTRODUCTION**

2 Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure,  
3 Gerald Trimble files these comments on the Proposed Decision of the  
4 assigned Administrative Law Judge (ALJ) dated March 3, 2008 in this  
5 proceeding.  
6

7 **2. BACKGROUND**

8 The Proposed Decision relates only to the second phase of this proceeding to  
9 consider the Stipulation. That portion of the original scoping of June 27, 2006,  
10 relating to Stipulation consideration, remains applicable as follows:  
11

12 ***6. Specific Issues to Be Addressed***

13 *The specific factual and legal issues to be decided in the proceeding are as follows:*

14 *a. As required by Public Utilities Code Section 851, is Golden*  
15 *State's execution of the stipulation entered into as a resolution*  
16 *of Santa Maria Valley Water Conservation District v. City of Santa*  
17 *Maria, No. CV 770214 (Santa Clara County Super. Ct.) just and*  
18 *reasonable, in the public interest, and, therefore, should be*  
19 *approved?*

20 *b. Are Golden State's obligations and undertakings under the*  
21 *proposed settlement just, reasonable, and in the public*  
22 *interest?*

23 *c. What are the ratepayers' risks, benefits, and costs under the*  
24 *stipulation?*

25 Interim Decision 07-05-041 dealt with the ratemaking decisions concerning  
26 attorneys' fees, and extended the proceedings to include a second phase plus  
27 an added 60 day extension under PUC Code §1701.5(a) to consider the  
28 Stipulation. There was no change therein to that original scoping relating to  
29 Stipulation consideration.

Decision 08-02-032 again added another time extension to April 28, 2008 to  
facilitate the comment period and Commission review period relative to the  
Proposed Decision, also based on PUC Code §1701.5(a).

1 **3. COMMENTS**

2 This Proposed Decision fails to consider any issues placed in the record  
3 during Phase II of this proceeding, namely those advanced by the Dismiss  
4 Motion of October 23, 2007. The single issue originally causing the delay<sup>1</sup>,  
5 prior to Phase II appears to be the only one which this Proposed Decision  
6 hinges on.

7  
8 While this single issue is considered a temporary fault to Stipulation approval  
9 it should not stand in the way of the consideration of the more severe, i.e.,  
10 permanent faults. Of the sixteen Stipulation issues in the filed Motion to  
11 Dismiss of October 23, 2007 none were addressed, nor was there any  
12 mention of any reason such were not addressed.

13  
14 The justification of the limiting of Phase II of this proceeding to that single  
15 issue is not supported by any prior record in this proceeding<sup>2</sup>.

16  
17 Even within this Proposed Decision, Findings of Fact #3 states that Phase II  
18 of the proceeding was designated for the consideration of the Stipulation, and  
19 does not restrict or limit the issues to be considered, and reads as follows:

20  
21 *3. The Commission addressed the ratemaking issues in D.07-05-041 during Phase I of  
22 this proceeding and designated Phase II for consideration of the stipulation.*

23 Finding of fact #6 refers only to “the issues causing the delay“, as follows:

24 *6. The status of the litigation and the reasons for the delays have not changed  
25 substantially, and no party has provided evidence that the issues causing the  
26 delay in this proceeding will be resolved in the near future.*

27 The litigation ended January 25, 2008, but was never referenced as an issue.

28 While “the issue(s) causing the delay” justified Phase II there has never been  
29 a declaration indicating that Phase II should be limited in issues considered.

---

<sup>1</sup> Nipomo pipeline issue, D.07-05-041, page 6 (Additional Phase for Proceeding)

<sup>2</sup> Notwithstanding D.07-05-041 Appendix A, § E, item 9 (contradicted by §§ A and F).

1 **3.1 HISTORICAL REVIEW OF STIPULATION CONSIDERATION**

2 The scoping memo filed on June 27, 2006 details the specific Issues to be  
3 addressed relative to the Stipulation on page 4 under section 6, and is  
4 repeated here as follows:

5 **6. Specific Issues to Be Addressed**

6 *The specific factual and legal issues to be decided in the proceeding are as follows:*

7 *a. As required by Public Utilities Code Section 851, is Golden*  
8 *State's execution of the stipulation entered into as a resolution*  
9 *of Santa Maria Valley Water Conservation District v. City of Santa*  
10 *Maria, No. CV 770214 (Santa Clara County Super. Ct.) just and*  
*reasonable, in the public interest, and, therefore, should be*  
*approved?*

11 *b. Are Golden State's obligations and undertakings under the*  
12 *proposed settlement just, reasonable, and in the public*  
13 *interest?*

14 *c. What are the ratepayers' risks, benefits, and costs under the*  
15 *stipulation?*

16 Within Interim Decision 07-05-041 finding of fact #2 relates to the Stipulation  
17 but does not reference any limiting of the issues to be considered, i.e.:

18 *2. Although DRA and Orcutt objected to Golden State's application, all three*  
19 *parties mediated a partial Settlement Agreement of the contested issues. This*  
20 *partial Settlement Agreement is set forth in Appendix A. A comprehensive*  
21 *agreement was not possible because of subsequent uncertainties as to the terms*  
22 *and conditions of the superior court settlement*

23 Again, within Interim Decision 07-05-041 finding of fact #9 relates to the  
24 Stipulation, reciting a request by GSWC, but such is only a reference to a  
25 request that carries no authority of order:

26 *9. Golden State has requested that the Commission establish a second phase*  
27 *to this proceeding to allow further consideration of the superior court settlement*  
28 *once uncertainties in that settlement are resolved. Golden State also asks for a*  
29 *60-day extension of the statutory deadline for this proceeding. DRA and Orcutt*  
*do not oppose these requests.*

1 Once again, within Interim Decision 07-05-041 Conclusion of Law #3 relates  
2 to extending the proceeding into a second phase but no mention of limiting  
3 the scope is included:

4 *3. The proceeding should continue in a second phase, and the statutory deadline*  
5 *imposed by section 1701.5 should be extended by 60 days as allowed by that section.*

6  
7 Interim Decision 07-05-041 Interim Order #4 relates to extending the  
8 proceeding into a second phase but again no mention of limiting the scope is  
9 included:

10 *4. With this decision, Phase 2 of the proceeding now commences and a*  
11 *separate scoping memo may be issued.*

12 Subsequent to Interim Decision 07-05-41 no additional scoping memo was  
13 issued leaving in force the original scoping of June 27, 2006, which itself does  
14 not limit the issues to be considered.

### 15 16 **3.2 DISCUSSION**

17  
18 The intent of the second phase of the proceeding (and the added 60 day  
19 extension) was a good faith effort to provide GSWC an opportunity to work  
20 out one specific issue (pipeline issue) within the Stipulation in order to  
21 eliminate the higher cost of a second application process<sup>3</sup>.

22  
23 Out of concern that the Stipulation was not receiving any scrutiny Trimble  
24 became a party during Phase II and filed a Dismiss Motion on October 23,  
25 2007 as the only way to reveal the overwhelming failures in its treatment of  
26 the rate paying public. The Response filed by GSWC to this motion did not  
27 dispute any reasons, facts or exhibits presented therein, and only included an  
28 indirect statement about relevance, which is properly the purview of the  
29 Commission.

---

<sup>3</sup> Interim Decision 07-05-041 page 6, last paragraph under "Additional Phase for Proceeding" notes such.

1 To fulfill the scoped intent of Phase II of this proceeding, all issues properly  
2 raised during the course of the proceeding should be considered. These  
3 should include not only benefit/cost and risk but also the technical integrity of  
4 the Stipulation to withstand legal assaults when parties compete for water  
5 during droughts.

6  
7 Defining and enforcement of existing groundwater rights is the proper subject  
8 of basin adjudication. These important issues relate to the Stipulation's  
9 attempt to remove the public's common law rights, to redefine the common  
10 law water shortage crisis, and to overwhelm the public with cost burden.

### 11 12 **3.3 STIPULATION ISSUES**

13 The following issues, not considered in this Proposed Decision, are thus not  
14 in conflict with the portion of Rule 14.3(c) to "*merely reargue positions*".

15 All Dismiss Motion sections were undisputed in the GSWC Response to it.

#### 16 17 **3.3.1 "Just and Reasonable" Issue**

18 The facts and conclusion relative to the scoped "just and reasonable" issues are  
19 as follows:

- 20 1. Urban rate payers use 9% of basin water while agriculture uses 91%. (2005 Santa Barbara  
21 County Water Agency Groundwater Report of March 28, 2006, Santa Maria Basin Excerpt, pages  
22 6 & 8)
- 23 2. The Stipulation burdens urban rate payers with 80% of Stipulation costs and agriculture with  
24 20%. (Stipulation pg 20-line 6, pg 15-line 20, pg 12-line 9)
- 25 3. GSWC Stipulation mandated project costs are unknown. (Dismiss Motion § 5)
- 26 4. GSWC A.06-02-026 claimed benefits of the Stipulation (pg 5, §4) already exist as a result of  
27 the adjudication. (Dismiss Motion, § 4)

#### 28 **Conclusion**

29 **Stipulation costs, are not in proportion to benefit received, are heavily  
prejudiced against the urban rate payer and are not just and reasonable.**



1 **3.3.2 “Rate Payer Risk” Issue**

2 The facts and conclusions relating to scoped public risk are as follows:

- 3 1. The Superior Court granted GSWC 1900afy of prescriptive native groundwater right. (Court’s  
4 Statement of Decision Phase 5 Page 3, line 12) (Court’s Judgment after Trial page 5 line 20)
- 5 2. The Stipulation requires GSWC, as a stipulator, to forfeit that prescriptive right to basin native  
6 groundwater. (Stipulation Page 7, line 5)
- 7 3. *At common law, appropriators are permitted to take only that which is surplus to the demands*  
8 *of overlying owners, unless prescriptive rights have been acquired.* (Court’s Partial Statement of  
9 Decision Phase 4 Page 17, line 7)
- 10 4. *The Public Water Producers who established prescriptive rights are entitled to those specific*  
11 *quantities of water in the Basin, the same as any overlying landowner, so long as there is*  
12 *sufficient water in the aquifer.* (Court’s Statement of Decision Phase 5, page 3, line 16)
- 13 5. *Those [prescriptive] rights are usufructuary and are correlative to the same extent that an*  
14 *overlying owner’s rights are correlative.* (Court’s Statement of Decision Phase 5, page 3, line 15)
- 15 6. The Stipulation states it is consistent with common law water rights, yet fails to even address  
16 the common law "no surplus" of groundwater to overlying landowner crisis condition. (Stipulation,  
17 page 6, line 26)
- 18 7. The Stipulation makes no pretense about the alleged GSWC allocated 10,000afy *groundwater*  
19 *yield from Twitchell Reservoir* not being inferior to the overlying landowner use right in the section  
20 “Recognition of Priority of Overlying Rights”. (Stipulation page 7 line 1, page 11 line 15)
- 21 8. The Stipulation states a “severe water shortage condition” cannot be declared during a  
22 drought. (Stipulation page 16, line 12)
- 23 9. This Superior Court declared “no surplus” periods, for the years of 1944-1951, 1953-1957, and  
24 1959-1967. (Court’s Partial Statement of Decision Phase 4 Page 9, line 17)
- 25 10. *The court therefore retains jurisdiction to make orders enforcing the rights of the parties*  
26 *hereto in accordance with the terms of this judgment.* (Court’s Judgment after Trial pg 5, line 11)

27 **Conclusion**

28 **GSWC’s served public is at severe risk of loss of water supply during a**  
29 **Court declared common law “no surplus” to overlying landowners without**  
**the GSWC prescriptive groundwater right forfeited by the Stipulation.**

1 **3.3.3 “Conflict of interest” Issue**

2 Additional facts and conclusions related to scoped public risk are as follows:

- 3 1. GSWC is to control one voting member of the Twitchell Management Authority (TMA) and one
- 4 voting member of the Nipomo Mesa Management Area (NMMA) Technical Group. (Stipulation
- 5 page 19, line 16)
- 6 2. GSWC income is directly affected by their level of funding of all programs and projects
- 7 sponsored by the TMA and by the NMMA Technical Group.

8 **Conclusion**

9 **GSWC would have a conflict of interest as a member of the TMA and as a**  
10 **member of the NMMA Technical Group.**

11  
12 **3.3.4 “Misrepresentation” Issues**

13 Facts and conclusions relating to GSWC misrepresentations in the Stipulation  
14 are as follows:

- 15 1. GSWC claims *the right to 10,000 acre-feet per year of groundwater yield from Twitchell*
- 16 *Reservoir...during periods of water-supply constraints;* (A.06-02-026 page 5, § IV, benefit #2)
- 17
- 18 2. The GSWC Stipulation fails to disclose the responsible party or the authority for the "allocation"
- 19 of the 10,000afy of groundwater [right] claimed by GSWC. (Stipulation pg 12, line 9, App F pg 2)
- 20
- 21 3. GSWC states the District is the party “allocating” these *certain benefits associated with the*
- 22 *augmented yield derived through Twitchell Project.* (Court document # SD07172777DC1<sup>4</sup>. page
- 23 7, line 19)
- 24
- 25 4. GSWC states *“The State Board has no permitting authority over production of percolating*
- 26 *groundwater.”* and therein references Water Code §1200. (Court document # SD07172777DC1
- 27 page 2, line 3)
- 28 5. The GSWC Stipulation confirms groundwater to be *percolating* groundwater. (Page 2, line 24)
- 29

<sup>4</sup> Public Water Suppliers’ Phase IV Closing Brief dated 3/10/06 (Authority 2)

1 6. GSWC states this “allocation” is *authorized by applicable Water Code provisions; and the*  
2 *contractual allocation is consistent with the terms and conditions of the State Board License.*  
3 (Court document # SEB719F349B7<sup>5</sup> page 2, line 19)

4 7. All GSWC cited Water Codes within that entire document include §§ 1260(f), 1628, 1675,  
5 74526, 74501 and 74592. (Court document # SEB719F349B7)

6 8. Water Codes §§ 1260(f), 1628, 1675, 74526, 74501 and 74592 and the State Board (SWRCB)  
7 License are not relevant to percolating groundwater according to Water Code §1200.

8  
9 **Conclusions**

10 **The GSWC Stipulation includes contractual misrepresentations of**  
11 **omission in not naming, therein, the party responsible for the allocation, or**  
12 **the authority of the party to execute the allocation of groundwater [right]<sup>6</sup>.**  
13 (Fact #2)

14  
15  
16 **This GSWC claim of authority for the allocation of percolating groundwater**  
17 **rights, based on water codes 1260(f), 1628, 1675, 74526, 74501 and 74592**  
18 **and the SWRCB License, is contrary to Water Code §1200.**

19  
20  
21 **GSWC acknowledges Water Code §1200 and it’s declared SWRCB License**  
22 **and Water Code limitation to exclude percolating groundwater (Facts #3-5),**  
23 **yet knowing this, GSWC still cites these as Stipulation authority to allocate**  
24 **percolating groundwater rights. (Facts #6-7)**

25  
26  
27  
28  
29 \_\_\_\_\_  
<sup>5</sup> Public Water Suppliers' Opposition to the LOG and Wineman Group's Motion for Non-Suit on Municipal Water Purveyors' Claim for Allocation of Twitchell Water dated 3/10/06

<sup>6</sup> “Twitchell Yield” in the Stipulation is defined as groundwater, corrected herein to groundwater right. All groundwater in the Santa Maria Valley basin is the property of the State of California (Water Code Section 102) and the State is not a party to this Stipulation.

1 **3.4 ONGOING LITIGATION FEE CHARGE TO RATE PAYERS**

2 Decision 07-05-041 initiated an open ended order to assess rate payers for  
3 ongoing litigation fees incurred by GSWC relative to the Superior Court Case  
4 CV770214 adjudication and the Stipulation. Many of these litigation fees after  
5 December 31, 2005 resulted from the effort in support and promotion of the  
6 Stipulation exclusive of adjudication issues.  
7

8 The Superior Court issued its Judgment after Trial on January 25, 2008 and  
9 litigation in defense of GSWC water rights therein ended.  
10

11 The Stipulation will be in limbo, technically does not exist, and no longer a  
12 matter before the CPUC whether it is dismissed with or without prejudice.  
13 Justification can no longer exist for allowing litigation fees relating to it.  
14

15  
16 **4. CONCLUSION**

17 To date GSWC's approach has been to avoid commenting on these issues for  
18 reasons that are obvious, as they cannot defend the unjust and unreasonable  
19 budget and project cost sharing. They cannot defend the reason for the  
20 forfeiting of the prescriptive right. They cannot defend the omission by the  
21 Stipulation to mention the impact of a "no surplus" crisis or its ignoring of a  
22 drought in its "severe water shortage crisis condition". They do not want to  
23 talk about public risk.  
24

25 How can GSWC claim in one document that the Stipulation allocation of the  
26 10,000afy of groundwater right is based on Water Codes and SWRCB  
27 License, and in another that Water Code 1200 indicates the SWRCB license  
28 is not relevant to groundwater rights?  
29

1 Complexity of this Stipulation masks the technical and legal failures of the so  
2 called developed water allocation and of Twitchell yield being native water.  
3 Stipulation complexity was intended to “freeze” and frustrate this proceeding.  
4

5 While it may be determined that some of these issues should be considered  
6 in a hearing process, certain ones are uncontestable and do not warrant  
7 hearings and are sufficient to justify immediate dismissal with prejudice.  
8

9 The dismissal without prejudice will be the hardest way out, and is simply a  
10 delay that is far more costly to all parties and the Commission. A time  
11 extension devoted to an analysis of the merit of these critical issues would be  
12 far more prudent. The true character of this Stipulation would emerge.  
13

14 The Superior Court Case associated with this Stipulation has issued its  
15 Judgment after Trial. This Stipulation, while imbedded therein is not a  
16 necessity and in fact detracts from the rulings the court has made. The court  
17 has taken the necessary steps for the adjudication to proceed without the  
18 Stipulation.  
19

20 The true measure of the Stipulation’s value to this adjudication is indicated by  
21 the GSWC qualification built into it, that if all costs cannot be passed on to the  
22 rate payers, it is, in its entirety, void and invalid<sup>7</sup>.  
23  
24

25 Appendix A contains specific changes to the Proposed Decision’s Findings of  
26 Fact, Conclusions of Law and Order, which are consistent with the evidentiary  
27 record of phase II of this proceeding.  
28  
29

---

<sup>7</sup> Stipulation page 32 line 12

1 Trimble respectfully requests that a Proposed Decision include consideration  
2 of all issues presented during the proceeding, including specifically the issues  
3 advanced herein and those in the Dismiss Motion.  
4

5 **Definitions**

6 Court – Superior Court of Santa Clara (ref case CV770214)

7 District – Santa Maria Valley Water Conservation District

8 GSWC – Golden State Water Company

9 Pleading Document – Court Case CV770214 Pleading Document

10 SBC – Santa Barbara County

11 SWRCB – State Water Resources Control Board of California

12 #XXXXXXXXXXXX – Superior Court E-File number

13 Italics indicate direct quoted material from the stated reference.

14 [ ] - Brackets indicate added terms to clarify verbiage  
15  
16

17 Date: March 18, 2008

respectfully submitted,

18  
19  
20 

21  
22 Gerald Trimble  
23 4586 Cameo Place  
24 Santa Maria, CA 93455-4247  
25 805-937-2518 (Phone)  
26 [jerryT@linkline.com](mailto:jerryT@linkline.com)  
27  
28  
29

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  
29

**APPENDIX A  
PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF  
LAW AND ORDER**

**Findings of Fact**

1. On February 24, 2006, Golden State initiated this proceeding by filing an application.
2. The Commission issued a scoping memo in this proceeding on June 27, 2006. This scoping memo confirmed the categorization of this proceeding as “ratesetting.”
3. The Commission addressed the ratemaking issues in D.07-05-041 during Phase I of this proceeding and designated Phase II for consideration of the stipulation.
4. In D.07-05-041, the Commission relied upon § 1701.5(a) to extend the statutory deadline for resolving the remaining issues in this proceeding related to the stipulation until February 25, 2008.
5. On January 31, 2008, Golden State filed a motion to further extend the statutory deadline for this application and set a schedule for Phase II. Two parties filed motions in opposition to Golden State’s Motion to Extend.
6. ~~The status of the litigation and the~~ reasons for the delays have not changed substantially, and no party has provided evidence that the issues causing the delay in this proceeding will be resolved in the near future.
7. Urban rate payers use 9% of basin water while agriculture uses 91%.
8. The Stipulation burdens urban rate payers with 80% of Stipulation costs and agriculture with 20%.
9. GSWC Stipulation mandated project costs are unknown.
10. GSWC A.06-02-026 claimed benefits of the Stipulation already exist as a result of the adjudication.
11. The Superior Court granted GSWC 1900afy of prescriptive native groundwater right.

1 12. The Stipulation requires GSWC, as a stipulator, to forfeit that prescriptive  
2 right to basin native groundwater.

3 13. *At common law, appropriators are permitted to take only that which is*  
4 *surplus to the demands of overlying owners, unless prescriptive rights have*  
5 *been acquired.*

6 14. *The Public Water Producers who established prescriptive rights are*  
7 *entitled to those specific quantities of water in the Basin, the same as any*  
8 *overlying landowner, so long as there is sufficient water in the aquifer.*

9 15. *Those [prescriptive] rights are usufructuary and are correlative to the*  
10 *same extent that an overlying owner's rights are correlative.*

11 16. The Stipulation states it is consistent with common law water rights yet  
12 fails to even address the common law "no surplus" of groundwater to  
13 overlying landowner crisis condition.

14 17. The Stipulation makes no pretense about the alleged GSWC allocated  
15 10,000afy *groundwater yield from Twitchell Reservoir* right not being inferior  
16 to the overlying landowner use right in the section "*Recognition of Priority of*  
17 *Overlying Rights*".

18 18. The Stipulation states a "severe water shortage condition" cannot be  
19 declared during a drought.

20 19. This Superior Court declared "no surplus" periods, for the years of 1944-  
21 1951, 1953-1957, and 1959-1967.

22 20. *The court therefore retains jurisdiction to make orders enforcing the rights*  
23 *of the parties hereto in accordance with the terms of this judgment.*

24 21. GSWC is to control one voting member of the Twitchell Management  
25 Authority (TMA) and one voting member of the Nipomo Mesa Management  
26 Area (NMMA) Technical Group.

27 22. GSWC income is directly affected by the level of funding of all programs  
28 and projects sponsored by the TMA and by the NMMA Technical Group.

29 23. GSWC claims *the right to 10,000 acre-feet per year of groundwater yield*  
*from Twitchell Reservoir...during periods of water-supply constraints.*



1 24. The GSWC Stipulation fails to disclose the responsible party or the  
2 authority for the "allocation" of the 10,000afy of groundwater [right] claimed by  
3 GSWC.

4 25. GSWC states the District is the party "allocating" these *certain benefits*  
5 *associated with the augmented yield derived through Twitchell Project.*

6 26. GSWC states "*The State Board has no permitting authority over*  
7 *production of percolating groundwater.*" and therein references Water Code  
8 §1200.

9 27. The GSWC Stipulation confirms groundwater to be *percolating*  
10 groundwater.

11 28. GSWC states this "allocation" is *authorized by applicable Water Code*  
12 *provisions; and the contractual allocation is consistent with the terms and*  
13 *conditions of the State Board License.*

14 29. All GSWC cited Water Codes within that entire document include §§  
15 1260(f), 1628, 1675, 74526, 74501 and 74592.

16 30. Water Codes §§ 1260(f), 1628, 1675, 74526, 74501 and 74592 and the  
17 State Board (SWRCB) License are not relevant to percolating groundwater  
18 according to Water Code §1200.  
19

## 20 21 22 **Conclusions of Law**

23 1. Section 1701.5(a) requires the Commission to resolve issues identified in a  
24 proceeding categorized as "ratesetting" within 18 months of the date the  
25 Commission issued its scoping memo in the proceeding.

26 2. In certain circumstances, § 1701.5 authorizes the Commission to deviate  
27 from this 18-month time frame.

28 3. The Commission may either extend this time frame in its scoping memo or  
29 extend this time frame by written order.

4. The provisions of § 1701.5 do not favor keeping proceedings open in the  
circumstances of this proceeding.

1 5. ~~At the appropriate time in the future, Golden State may ask the~~  
2 ~~Commission to consider the issues that remain unresolved here by filing an~~  
3 ~~application.~~

4 5. Stipulation costs, are not in proportion to benefit received, are heavily  
5 prejudiced against the urban rate payer and are not just and reasonable.

6 6. GSWC's served public is at severe risk of loss of water supply during a  
7 Court declared "no surplus" to overlying landowners without the GSWC  
8 prescriptive groundwater right forfeited by the Stipulation.

9 7. GSWC would have a conflict of interest as a member of the TMA and as a  
10 member of the NMMA Technical Group.

11 8. The GSWC Stipulation includes contractual misrepresentations of omission  
12 in not naming, therein, the party responsible for the allocation, or the authority  
13 of the party to execute the allocation of groundwater [right].

14 9. This GSWC claim of authority for the allocation of percolating groundwater  
15 rights, based on water codes 1260(f), 1628, 1675, 74526, 74501 and 74592  
16 and the SWRCB License, is contrary to Water Code §1200.

17 10. GSWC acknowledges Water Code §1200 and it's declared SWRCB  
18 License and Water Code limitation to exclude percolating groundwater, yet  
19 even knowing this, GSWC still cites these as Stipulation authority to allocate  
20 percolating groundwater rights.  
21

## 22 **ORDER**

23 **IT IS ORDERED** that:

- 24 1. Application (A.) 06-02-026 is dismissed ~~with~~out prejudice.  
25 2. Golden State Water Company's motion to extend time for A.06-02-026 and  
26 to set a schedule for Phase II is denied.  
27 3. The motion of Gerald Trimble seeking dismissal of A.06-02-026 with  
28 prejudice is ~~denied~~, de facto, granted.  
29 4. Ongoing GSWC litigation costs relating to the adjudication or Stipulation  
shall no longer be charged to ratepayers as allowed in D.07-05-041.

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  
29

5. A.06-02-026 is closed.

This order is effective today.

Dated, at San Francisco, California.

1 **APPENDIX B**

2 **Notice of Availability**

3 **Title:**

4 **COMMENTS OF**  
5 **GERALD TRIMBLE, RATE PAYER ACCOUNT #317879-5**  
6 **RELATIVE TO THE PROPOSED DECISION DISMISSING**  
7 **APPLICATION 06-02-026 WITHOUT PREJUDICE**

8 **Contents:**

9 The comments includes a single file in PDF/A format at the following link/URL.

10 **Link/URL**

11 <http://personal.linkline.com/trimble/Dismiss/Comments.pdf>

12 **Date available:**

13 03/18/08

14 **Name and contact information:**

15 Gerald Trimble

16 805-937-2518

17 [jerryt@linkline.com](mailto:jerryt@linkline.com)

1  
2  
3  
4  
5 **Certificate of Service**

6 I hereby certify that I have this day served a copy of the

7  
8 **COMMENTS OF**  
9 **GERALD TRIMBLE, RATE PAYER ACCOUNT #317879-5**  
10 **RELATIVE TO THE PROPOSED DECISION DISMISSING**  
11 **APPLICATION 06-02-026 WITHOUT PREJUDICE**

12 on all known parties to A.06-02-026 by sending a Notice of Availability via  
13 electronic mail and by mailing a properly addressed CDROM copy by first-class  
14 mail with postage prepaid to each party named in the official service list without  
15 an electronic mail address.

16 Executed on March 18, 2008 at Santa Maria, California.

17  
18 

19  
20  
21 \_\_\_\_\_  
22 Gerald Trimble  
23  
24  
25  
26  
27  
28  
29

**Proceeding: A0602026 - Golden State Water Company  
Last changed: November 5, 2007**

**Parties**

KEITH SWITZER  
VP REGULATORY AFFAIRS  
GOLDEN STATE WATER COMPANY  
630 EAST FOOTHILL BLVD.  
SAN DIMAS, CA 91773-9016  
FOR: GOLDEN STATE WATER COMPANY

DONALD R. WARD  
ORCUTT AREA ADVISORY GROUP  
4689 MARLENE DRIVE  
SANTA MARIA, CA 93455

GERALD TRIMBLE  
4586 CAMEO PLACE  
SANTA MARIA, CA 93455-4247

E. STEWART JOHNSTON  
1363 W. MAIN ST.  
SANTA MARIA, CA 93458  
FOR: LANDOWNER GROUP PARTIES

MARIA L. BONDONNO  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 4008  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JOSEPH M. KARP  
ATTORNEY AT LAW  
WINSTON & STRAWN, LLP  
101 CALIFORNIA STREET, 39TH FLOOR  
SAN FRANCISCO, CA 94111-5894  
FOR: GOLDEN STATE WATER COMPANY

**Information Only**

JOHN GARON  
REGULATORY AFFAIRS MANAGER  
GOLDEN STATE WATER COMPANY  
630 E. FOOTHILL BLVD.  
SAN DIMAS, CA 91773-9016

KARLEEN O'CONNOR  
WINSTON & STRAWN LLP  
101 CALIFORNIA STREET  
SAN FRANCISCO, CA 94111

**State Service**

DIANA BROOKS  
CALIF PUBLIC UTILITIES COMMISSION  
WATER BRANCH  
ROOM 4208  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

FRED L. CURRY  
CALIF PUBLIC UTILITIES COMMISSION  
WATER AND SEWER ADVISORY BRANCH  
ROOM 3106  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JAMES SIMMONS  
CALIF PUBLIC UTILITIES COMMISSION  
COMMUNICATIONS POLICY BRANCH  
ROOM 4209  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

REGINA DEANGELIS  
CALIF PUBLIC UTILITIES COMMISSION  
DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 5022  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214