

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of Golden State Water Company (U 133 W) 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

**GOLDEN STATE WATER COMPANY'S COMMENTS ON THE PROPOSED
DECISION DISMISSING APPLICATION WITHOUT PREJUDICE**

GOLDEN STATE WATER COMPANY

Keith Switzer

Vice President, Regulatory Affairs

630 East Foothill Boulevard

San Dimas, California 91773

Telephone: (909) 394-3600

Facsimile: (909) 394-7427

Email: kswitzer@gswater.com

Joseph M. Karp

Karleen O'Connor

Winston & Strawn LLP

101 California Street, 39th Floor

San Francisco, California 94111-5894

Telephone: (415) 544-1000

Facsimile: (415) 591-1400

Email: jkarp@winston.com

koconnor@winston.com

Attorneys for Golden State Water Company

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In the Matter of the Application of Golden State Water Company (U 133 W) 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.

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Golden State Water Company (“GSWC”) respectfully submits these Comments on the Proposed Decision Dismissing Application Without Prejudice (“Proposed Decision”). The Proposed Decision appears to misinterpret the status of the facts underlying the Application, and thus, proposes to dismiss the Application, requiring the Commission, interested parties and GSWC to repeat much of its efforts in processing the Application to date. GSWC submits these comments to clarify the status of the Application and GSWC's proposal to continue with the Application, ultimately saving all the parties involved significant time and resources.

As discussed below, good cause exists for the Commission to modify the Proposed Decision and approve GSWC’s Motion to Extend and to Set a Schedule for Phase II, as permitted by Public Utilities Code § 1701.5. Doing so will allow the Commission, in the most expeditious manner, to review the merits of the Stipulation entered into by GSWC and many

other parties to resolve complex, multi-party groundwater litigation. This Stipulation has already been approved by the trial court in a final order. GSWC will present supplemental testimony that should provide the needed certainty for the Commission to act on the Application. A dismissal of GSWC's Application, on the other hand, will needlessly delay and add cost to these proceedings for no purpose, because GSWC will simply re-file its application with the changes needed to reflect the content of its proposed supplemental testimony and seek a pre-hearing conference and schedule, which is the precise requested relief currently before the Commission. In the interests of judicial economy and expediency, GSWC respectfully requests that the Commission modify the Proposed Decision and grant GSWC's Motion to Extend and to set a schedule for Phase II.

II. DISCUSSION

A. The Nipomo Issue is Just One Component of the Overall Stipulation

In its Application, GSWC sought approval of (i) a stipulation entered into by GSWC and other parties that resolved virtually all of the issues pending in a superior court action relating to the Santa Maria groundwater basin ("Stipulation") and (ii) proposed ratemaking treatment of the costs incurred in the litigation. The Stipulation resolved litigation involving more than a thousand parties by, among other things, allocating water rights among the parties, creating new oversight committees to monitor and manage local water sources and retaining on-going judicial oversight of the court imposed groundwater management plan. As to GSWC's participation in the Stipulation and the basin management plan, GSWC will: a) have rights to pump local groundwater; b) hold a right to pump an allocation of the yield of the Twitchell Reservoir; c) store and recapture return flows from the use in the Basin of State Water Project water; and d) and participate in the Twitchell Management Authority and the Nipomo Mesa management

area technical group. Each of these elements of the Stipulation is self-executing and all the parties to the Stipulation are proceeding to fulfill their obligations; subject only to the Commission's approval of GSWC's participation in the Stipulation itself.

One element of GSWC's obligation within the overall Stipulation — implementation of the “the Nipomo Supplemental Water” program — does require some further definition. The Nipomo Supplemental Water program is the means by which GSWC (and certain other stipulating parties) will provide supplemental water to the Nipomo Mesa Management Area. In an effort to minimize the overall costs for the Nipomo Supplemental Water program, the physical delivery method for the project has not yet been settled (and, as such, there remains some uncertainty). GSWC, the City of Santa Maria, and the Nipomo Community Services District are examining two alternative delivery methods and are certain that the program uncertainty will be resolved promptly and satisfactorily. GSWC is otherwise anxious to begin implementing the many other important aspects of the Stipulation. Based on the anticipated content of GSWC's supplemental testimony in this matter, GSWC is confident the Commission will be capable of acting on GSWC's application and allow the implementation of the entire Stipulation.

Indeed, as discussed below, GSWC is prepared to present to the Commission a proposal for resolving GSWC's Nipomo Supplemental Water program obligation and a regulatory strategy in the event this proposal must be modified in the future. GSWC's proposal will allow the Commission to address the Application with a high degree of certainty. To let the uncertainty involving only the Nipomo Supplemental Water program drive the schedule in this proceeding, and preclude the Commission from adopting the most expeditious means of addressing the issues is like the proverbial “tail wagging the dog.”

B. The Proposed Nipomo Supplemental Water program

In its Motion to Extend, GSWC informed the Commission that it has developed a solution to the Nipomo Supplemental Water program, which it intended to present in supplemental testimony. The Proposed Decision indicates that GSWC's Motion to Extend lacked sufficient certainty. As GSWC is still finalizing the details of the Nipomo Supplemental Water program, it is not prepared to convey all of the details at this time; however, GSWC intends to do so in testimony in accordance with a schedule as detailed in its Motion to Extend (i.e. by April 2008). To assist the Commission in better understanding GSWC's proposal and its likelihood of success, GSWC offers the following:

GSWC's alternative solution for the Nipomo Supplemental Water program involves a lower cost water supply source than originally intended, as well as the construction of a shorter (and thus less costly) pipeline. Specifically, GSWC is planning to collaborate on the use of a well on the north (Nipomo) side of the Santa Maria River and construct a pipeline to connect this supply source into its Nipomo Mesa system. GSWC intends to rely on its own water rights (State Water Project return flow credits) to pump supplemental water to its Nipomo Mesa system. GSWC recently completed the hydrologic studies on this alternative, and the proposed solution is feasible. GSWC is currently discussing collaboration on this project with the City of Santa Maria, Nipomo Community Services District, and perhaps others on the Nipomo Mesa. The actual pipeline costs may vary based on the number of parties involved in this program. Undoubtedly, GSWC's water supply costs will be lower than that involved in the original Nipomo Supplemental Water program because the company will rely on its own water rights, rather than purchasing water from another source. Ultimately, the total costs will be based on the number of participants and the capacity of the project.

Additionally, GSWC intends to present testimony that will allow the Commission to address the merits of the Stipulation with a high degree of confidence, even if subsequent events impact GSWC's proposed physical solution to the Nipomo Mesa Supplemental Water program. In particular, GSWC will present testimony on the range of possible financial outcomes associated with the Nipomo Supplemental Water program and ask the Commission to approve the Stipulation as reasonable in light of all of the other components of the Stipulation and these possible outcomes for the Nipomo Supplemental Water program. Nowhere does the Commission require that every potential uncertainty be eliminated before an action is evaluated by the Commission; this would be an impossible standard to achieve.

To help mitigate concerns about uncertainty, GSWC will also ask the Commission to pre-approve a budget for the Nipomo Supplemental Water program. This contingency may also provide for a separate "mini proceeding" to reconsider the Nipomo Supplemental Water program if it is impossible for GSWC to remain within the pre-approved budget. GSWC appreciates that other parties to this proceeding may disagree with this proposal.

The central point to keep in mind, however, is that these are issues that will need to be litigated before the Commission. This litigation can be completed most cost effectively and expeditiously through continuation of this Application. Dismissing the Application will only result in delay and added cost to conclude this matter because GSWC will be forced to present the very same proposal in a new application.

If the Commission modifies its Proposed Decision, grants GSWC's Motion to Extend and sets a schedule for filing testimony, rather than dismissing this Application, GSWC will be able to present detailed testimony on all elements the Commission may require to approve the

Stipulation and the proposed Nipomo Supplemental Water program. No party will be prejudiced as a result.

C. The Trial Court Has Issued a Final Judgment and Time is of the Essence

Earlier this year, the trial court judge approved the Stipulation — even in face of uncertainty regarding the proposed Nipomo Supplemental Water program and issued a final judgment in the underlying litigation. GSWC has the option to opt out of the Stipulation if the Commission fails to approve the Stipulation. But the longer GSWC waits to opt out, the worse the position for GSWC and the other stipulating parties, as the parties to the Stipulation are actively taking steps to implement the Stipulation, even in light of the uncertainty with Supplemental Water program.

Of course, GSWC does not want to lose the years of hard work among the multitude of parties that went into crafting the Stipulation and believes that it is appropriate for the Commission to approve the Stipulation. Indeed, time is of the essence for Commission approval of the Stipulation. As such, the Commission should modify the Proposed Decision and grant GSWC's Motion to Extend and set a schedule for Phase II of this Proceeding.

III. CONCLUSION

GSWC respectfully requests that the Commission modify the Proposed Decision and issue a Scoping Memo, setting forth a schedule for addressing Phase II.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joseph M. Karp', is written over a horizontal line.

Joseph M. Karp
Karleen O'Connor
Winston & Strawn LLP
101 California Street, 39th Floor
San Francisco, California 94111-5894
Telephone: (415) 544-1000
Facsimile: (415) 591-1400
Email: jkarp@winston.com
koconnor@winston.com
Attorneys for Golden State Water Company

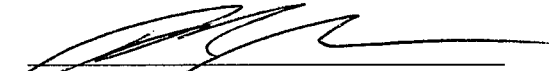
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***GOLDEN STATE WATER COMPANY'S COMMENTS ON THE PROPOSED DECISION
DISMISSING APPLICATION WITHOUT PREJUDICE***

on all known parties to A.06-02-026 by sending a copy via electronic mail.

Executed on March 24, 2008, at San Francisco, California.



Marcus Russo



California Public
Utilities Commission

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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
 FOR: GERALD TRIMBLE

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 39TH FLR
 SAN FRANCISCO, CA 94111
 FOR: GOLDEN STATE WATER

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

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