

Posted on Mon, May. 01, 2006

Suit says Nipomo water plan is too risky

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An environmentalist says Nipomo should not OK building based on a plan to get water from Santa Maria

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It's too risky to approve more building in Nipomo based on the assumption that the town will get water from Santa Maria, according to a local environmentalist who is suing the town's services district to redo its long-term water plans.

The Nipomo Community Services District has been working for several years to secure water from its neighbor to the south and build an \$8 million pipeline to import the water.

Gordon Hensley, executive director of the San Luis Obispo Coastkeeper group, said that water is not guaranteed, but the district's recently adopted water management plan states as fact that Nipomo will pipe in 3,000 acre-feet — enough to serve 6,000 homes — a year from Santa Maria.

The local nonprofit Coastkeeper is among about 110 groups in the Waterkeeper Alliance, a worldwide organization that acts as a watchdog for regional water issues. It's also part of Environment in the Public Interest.

Nipomo's management plan outlines the town's water availability based on several supply-and-demand scenarios. District and county officials use the plan to figure whether there is enough water to support new growth.

Last week, Hensley filed a lawsuit attempting to get the district to rewrite the plan.

"Since every development proposal made from now on will look to this document to justify continuing the rapid-pace conversion of agricultural land and habitat on the Mesa, the plan must provide an accurate evaluation the district, the county and the public can rely on with certainty," said Hensley, a former member of the Los Osos Community Services District board.

The suit claims that the plan should be overturned for two reasons:

- Santa Maria could decide at any time not to sell Nipomo water, or an environmental review could find that a pipeline is not feasible;
- A settlement in a nine-year-old lawsuit over groundwater rights in the Santa Maria area is still not complete.

Michael LeBrun, general manager of the services district, acknowledged that the future is not certain. But a consulting firm he described as top-notch prepared the document and only included water sources if they reached a certain level of certainty.

"What I understand is we met the threshold," LeBrun said. "We feel that the document is solid."

The district has worked out a deal with the city of Santa Maria that Nipomo will get 3,000 acre-feet of water per year. The district also paid the city a deposit for that entitlement.

Santa Maria has more water than its future growth will need, said Dwayne Chisam, the city's utility director.

Santa Maria already sells water to southern neighbor Orcutt, Chisam said. It also benefits ratepayers by selling it to neighbors.

The settlement in the long-running lawsuit was signed last summer.

Nipomo's part of the agreement was not discussed in the latest phase of the trial, which took place in early March.

It's not expected to be discussed in the next — and likely final — phase which starts June 5.

Still, said attorney Babak Naficy, who filed the suit on behalf of Hensley, when the water plan was adopted in January, district officials were not sure if the settlement was finalized.

"We think it's very important under these circumstances to be as accurate as possible," Naficy said. "This is not just some stupid piece of paper that is going to hide in a drawer."

If the lawsuit is successful, it could wreak havoc on the district's attempts to manage the struggling groundwater supply, LeBrun said.

The county Local Area Formation Commission required the district to adopt the plan before any annexations into the agency's boundaries can be completed.

At the request of the services district and the South County Advisory Council, county supervisors in December raised the water shortage severity level to the highest degree.

District officials are trying to get new developers to annex into the district so they don't form their own mutual water companies. Mutual water companies would allow people to pump from the groundwater basin and give them priority to that water.

If the aquifer continued to decline, a mutual water company could continue pumping, while the district would have to look for more supplemental water.

The lawsuit "is a very big deal," LeBrun said. "It is in the interest of every customer in this district that we develop supplemental sources of water. This document is one of our first steps."

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