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Decision 01-11-048 November 29, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Valencia Water Company (U34-W) seeking approval of its updated Water Management Program as ordered in Commission Resolution W-4154 dated August 5, 1999.	Application 99-12-025 (Filed December 17, 1999)

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Brecher & Volker, LLP, by Stephan C. Volker. Attorney at Law, for Friends of the Santa Clara River, Santa Clarita Organization for Planning the Environment and Sierra Club, complainants.

James L. McBride, County Counsel, by Dennis L. Slivinski, Assistant County Counsel and Antonette B. Cordero, Assistant County Counsel for the County of Ventura.

Edwin and Joan Dunn, Robert P. Lathrop, for themselves.

Peter G. Fairchild, Attorney at Law, and Fred Curry, for the Water Division.

OPINION APPROVING WATER MANAGEMENT PROGRAM AND AUTHORIZING SERVICE AREA EXPANSION

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OPINION APPROVING WATER MANAGEMENT PROGRAM AND AUTHORIZING SERVICE AREA EXPANSION

I. Summary

The Commission approves Valencia Water Company's (Valencia) 1999 Water Management Program (WMP) and Advice Letters (ALs) 88 and 90, requesting permission to expand its service area. Approval of these advice letters authorizes Valencia to provide water service to the North Valencia 2, Mountain View, West Creek, and Tesoro del Valle development projects. Upon completion of the projects, Valencia would add a total of approximately 6020 customers to its service area, and the incremental water demand would be 5,011 acre-feet per year (AFY).

The respective Environmental Impact Reports (EIRs) for these four development projects were previously certified either by Los Angeles County or the City of Santa Clarita acting as "lead agency" under the California Environmental Quality Act (CEQA). Along with its Proponents' Environmental Assessment (PEA), as required by Rule 17.1 of the Commission's Rules of Practice and Procedure, Valencia submitted copies of these EIRs, with a motion requesting approval of its ALs 88 and 90 covering the four projects. The Commission staff reviewed these EIRs and concluded that the EIRs were complete and adequate for purposes of the Commission's review.

As a "responsible agency" pursuant to the CEQA Guideline 15096, the Commission has considered the environmental assessments contained in the environmental documents for the four related land development projects that encompass ALs 88 and 90. The Commission concludes that all environmental impacts that may be associated with the extensions of water service proposed by ALs 88 and 90 were within the scope of the environmental impact reviews that were performed in connection with the related land development projects.

The Commission rejects the arguments of Sierra Club and the County of Ventura that the Commission should assume the role of lead agency and issue an EIR on the WMP and all water supplies shown as available in the WMP before it can address ALs 88 and 90.

After review of the WMP in conjunction with ALs 88 and 90, the Commission concludes that the water supplies that the WMP demonstrates to be available provide an ample margin of safety to allow Valencia to serve new customers to the extent contemplated by ALs 88 and 90.

II. Factual Background Regarding Valencia's Water Supplies

Valencia is a Class A water utility offering public utility water service for a mix of residential and commercial land uses in portions of the Santa Clarita Valley of Northern Los Angeles County. It is one of the four retail water purveyors serving the Santa Clarita Valley, the others being Newhall County Water District, Santa Clarita Water Company, and Los Angeles County Waterworks District 36. The Castaic Lake Water Agency (CLWA) performs a wholesale function, contracting for water supplies from the State Water Project (SWP) and potentially other sources, treating those supplies in its Rio Vista and Earl Schmidt Treatment Plants, and delivering them to the four retail purveyors for service to end-use customers. Since CLWA's acquisition of Santa Clarita Water Company in 1999, Valencia is the only one of these entities subject to regulation by the Commission.

The primary source of water supplies for the Santa Clarita Valley historically has been groundwater pumped from the Alluvial Acquifer and the underlying Saugus Formation. Beginning in 1980, CLWA has delivered imported water from the SWP into the Valley, supplementing these groundwater

supplies, and more recently CLWA has undertaken plans to deliver highly treated recycled water from existing water reclamation plants operated by the County Sanitation Districts of Los Angeles County.

Valencia's own water system includes 18 wells in the Alluvial Aquifer, five wells in the Saugus Formation, and six connections, called turnouts, to CLWA's system by which Valencia receives SWP water from CLWA. Valencia generally produces water using a mix of about 50% groundwater and 50% imported water, with some variation in the mix depending on peak demands and weather conditions.

The groundwater basin in the Santa Clarita Valley is unadjudicated, meaning that neither Valencia nor the other purveyors have adjudicated water rights that dictate their water supply. The total supply available to all purveyors in the basin and the ability of Valencia to access those supplies determines the amount available to Valencia to meet its long-term supply needs.

III. Procedural Summary

A. Events Before This Proceeding

Until recently, Commission staff regularly approved advice letter filings authorizing Valencia to extend its service area boundaries to encompass new developments upon confirming the adequacy of Valencia's water supply and facilities to meet anticipated demand for service.

Broader issues regarding such authorizations were brought to the Commission's attention by a complaint filed in September 1998 by the Angeles Chapter of the Sierra Club (Sierra Club), which alleged that Valencia and other water retailers had overpumped the Alluvial Aquifer; consequently, the complaint challenged the adequacy of available water supplies to meet the future

demand represented by proposed housing developments for which preliminary plans showed Valencia as the likely provider of water services. Sierra Club sought an order from the Commission determining that Valencia had reached the limit of its capacity to supply new customers without harm to current customers. The Commission dismissed the complaint, stating that it would "adjudicate Valencia's capacity to serve additional customers in the proceedings where Valencia seeks authorization to serve those customers." (*Sierra Club v. Valencia Water Company*, Decision (D.) 99-04-061, Conclusion of Law 4.)

Meanwhile, in March and April 1999, Valencia had filed ALs 84 and 85, seeking authority to expand its service area to serve an additional 3,400 homes. Sierra Club protested these advice filings, alleging insufficient supply due to overpumping of groundwater, inadequate SWP supply, and a lack of storage or means of conveyance for imported water. By Resolution W-4154, adopted August 5, 1999, the Commission found, based on staff review, that Valencia's water supply was adequate to serve the additional service territory requested in ALs 84 and 85, and so approved the advice letters. However, the Commission also adopted the staff recommendation that Valencia be ordered to prepare an updated WMP to enable the Commission and all interested parties to evaluate the effects of further expansion of its service area on its water supply.[1]

B. This Proceeding

On December 17, 1999, Valencia responded to Resolution W-4154 by filing its application seeking approval of an updated WMP. Protests to the application were filed by Sierra Club, Santa Clarita Organization for Planning the

[1] Sierra Club's request for rehearing of Resolution W-4154 was denied in D.99-11-032.

Environment (SCOPE), Friends of the Santa Clarita River (Friends of the River), County of Ventura (Ventura), and the Ratepayer Representation Branch of the Commission's Water Division staff (Water Division).[2] A prehearing conference (PHC) was held on February 8, 2000, before Commissioner Josiah Neeper and Administrative Law Judge (ALJ) Bertram Patrick, in Los Angeles, and a Scoping Memo and Ruling of Assigned Commissioner was issued February 18. The Scoping Memo noted agreement among the parties that the issues in this proceeding should include (1) whether Valencia's current and planned water supplies are sufficient to meet future customer needs; and (2) whether the Commission should approve Valencia's updated WMP.

The Scoping Memo noted Sierra Club's and Ventura's (jointly referred to as Protestants) contentions that the proceeding also should consider the total future demand for water in the Santa Clarita Valley and the impact of Valencia's proposed water use on downstream water users. After referencing and quoting at length the Commission's observations in D.99-04-061 about its limited role and authority in water supply planning matters, the Assigned Commissioner concluded that it was "not appropriate to expand the scope of this proceeding to include modeling of basin wide surface/groundwater flows and a comprehensive analysis of water to the entire region water supply, as requested by Ventura," and so ruled that the scope of the proceeding would be limited to the two issues set forth above, and that the reliability of SWP supplies and the availability of groundwater supplies is relevant only to the extent that these

[2] Because Sierra Club, SCOPE, and Friends of the River were jointly represented by counsel and have taken common positions throughout the course of this proceeding, they are referenced jointly as "Sierra Club."

affect the supply to Valencia's present and future customers. (Scoping Memo, pp. 5-6.)

On March 20, 2000, Valencia filed AL 88, seeking authority to expand its service area to include portions of two land developments, known as North Valencia Annexation-2 (North Valencia 2) and Mountain View, both generally abutting the northerly boundaries of Valencia's existing service area and together comprising 1,898 dwelling units on 484 acres of mixed use development. On September 19, 2000, Valencia filed AL 90, requesting permission to extend service to two additional land developments, West Creek and Tesoro del Valle, north and west of the North Valencia 2 area and together presenting the potential for adding 4,122 dwelling units into Valencia's service area.

In accordance with the established schedule, the parties proceeded to serve prepared direct and rebuttal testimony in April and May, 2000. Six days of evidentiary hearings were held in Los Angeles during late May and early June, 2000. The schedule for submission of briefs was suspended, however, due to Ventura's motion on May 22, the first day of hearing, asking the Commission to determine that this proceeding involves a "project" under the terms of the CEQA, Public Resources Code § 21000 *et seq.*, and relevant regulations. Sierra Club filed a similar motion on May 30.

In D.00-10-049, the Commission ruled on Sierra Club's and Ventura's motions relating to CEQA. The Commission confirmed its past conclusions that the Commission's role in water use decisions is significantly more limited than that of other state and local agencies, "with a focus upon ensuring that each jurisdictional water utility provides its customers with 'just and reasonable service, …and facilities as are necessary to promote the safety, health, comfort,

and convenience of its patrons, employees, and the public.'" (D.00-10-049, mimeo., at 8.)

The Commission recounted the course of events leading to Valencia's filing of the present application, noting that the filing of an updated WMP apart from a general rate case "is unusual, but was adopted to provide a forum to review the issues raised earlier by Sierra Club." (*Id.* at 7.) The Commission also discussed the pending ALs 88 and 90, noting that "while they have not been formally consolidated with the WMP, and remain separate filings, they are related, and both ALs 88 and 90 are dependent upon the WMP." (*Id.* at 8.) Specifically, "the Commission's stated intent is that approval of advice letters such as AL 88 and AL 90 can only occur after Commission approval of Valencia's WMP." (*Id.*)

On the question whether Valencia's application for approval of the WMP constitutes a "project" under CEQA, the Commission concluded that "CEQA is applicable to the present WMP together with ALs 88 and 90." (*Id.* at 22, 24 (Conclusion of Law 1).) Noting that local agencies had prepared EIRs for each of the development projects to which ALs 88 and 90 relate, the Commission saw no reason to duplicate CEQA reviews already conducted by other agencies. Accordingly, the Commission ordered Valencia to file a Proponent's Environmental Assessment (PEA) addressing "the service area expansions proposed in ALs 88 and 90 and reflected in the WMP," while also submitting copies of any EIRs relating to the ALs, along with evidence of any final local agency actions relating to those EIRs. (*Id.*, Ordering Paragraph 1.)

On November 13, 2000, Valencia made the required submissions, formally filing its PEA. On the same day, following the guidance of Commission staff, Valencia also filed a Motion for Review and Approval of Tariff Changes

Proposed by ALs 88 and 90, asking that the Commission consider granting approval of the ALs in this proceeding, concurrently with its action on the WMP.

On November 18, 2000, a PHC was held to discuss the scope of CEQA review and to establish procedures for that and related purposes. In PHC statements and a reply to Valencia's motion, Sierra Club and Ventura contended that environmental review of the WMP should not be limited to the incremental increases in demand associated with ALs 88 and 90, and that the WMP must be approved *before* the Commission can address the advice letters. Valencia responded that both CEQA and D.00-10-049 mandate that ALs 88 and 90 be considered concurrently with the WMP, because D.00-10-049 essentially held that the WMP and the advice letters are part of the same project and, for CEQA purposes, all elements of a project must be considered together.

In a ruling issued December 21, 2000, the Assigned Commissioner confirmed the Commission's intent "to consider Advice Letters 88 and 90 in conjunction with the WMP." Noting that a WMP, in isolation, is simply a planning document that does not typically provide a water utility any entitlement for future expansion of its service area, the Assigned Commissioner recalled the discussion in D.00-10-049 explaining the facts that made this case "somewhat unique." After extensively quoting from that decision, the Assigned Commissioner concluded that all responsible interests would be served by having the Commission "conduct its CEQA review and its substantive consideration of both the WMP and ALs 88 and 90 through a concurrent process, culminating in a single Commission decision addressing the relevant issues … within the 18-month time frame mandated by statute." The Assigned Commissioner specifically ruled that the "project" for CEQA review purposes

was the WMP "in conjunction with ALs 88 and 90," and instructed the ALJ to proceed with review of the PEA consistent with D.00-10-049.

On May 11, 2001, the ALJ issued a ruling noting that Commission staff had reviewed the documents filed by Valencia comprising its PEA and that staff found the PEA to be complete for CEQA review purposes for each of the development projects that Valencia now seeks Commission authority to serve. The ALJ set further days of hearing on the advice letters and also to allow updating of the record related to the WMP, if necessary.

Pursuant to the ALJ's ruling, the parties served further prepared testimony and held two more days of evidentiary hearing in Los Angeles on June 12-13, 2001. Opening and reply briefs were filed by Sierra Club, Valencia, and Ventura, and this proceeding was submitted for decision on August 27, 2001.

IV. The Proper Role of the Commission Under CEQA

The real question raised by Protestants is whether Valencia's application requesting Commission approval of the WMP (and associated ALs) reveals a regulatory gap in regard to the long-term water supply planning in the Santa Clarita Valley, and if so, is the Commission the agency to fill that gap? Protestants would say "yes," based on their perception that (1) environmental review conducted locally is incomplete, and (2) the WMP is a planning document requiring at least a program EIR. Valencia says "no" to these questions, based on its belief that (1) environmental review (including cumulative impacts analysis) was conducted by the local permitting authorities, and (2) the build-out analysis performed already by CLWA and Los Angeles County, constitute the long-term supply planning for CEQA purposes, <u>not</u> the WMP.

For the reasons set forth below, we conclude that the Commission's proper role in this matter is that of a responsible agency, and consistent with the extent of its jurisdiction, is limited to determining the adequacy of water supply to meet the needs of Valencia's present and future customers.

A. Position of Ventura

Ventura argues that CEQA does not permit the Commission to limit its statutory responsibilities to that of a responsible agency. Ventura relies on *Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 903-905. Ventura characterizes the WMP as "a continuing program with an interim 10-year Los Angeles County Development Monitoring System (DMS) horizon and long-term 20-year planning horizon." Ventura contends that as a "lead agency" having the principal responsibility for approving the WMP, which may have a significant effect on the environment, the Commission must require an EIR to be prepared for the WMP. According to Ventura, ALs 88 and 90 are sub-projects supported by EIRs prepared for their underlying land developments with an incremental water demand of about 5,011 AFY. Ventura contends that the WMP on which the ALs rely is the larger project planning document to inventory regional water supplies available in the amounts indicated to meet project demand for the 10- to 20-year horizon of the WMP. Ventura argues that CEQA review of such general planning documents should be accomplished by a program EIR to evaluate a series of actions related geographically as logical parts of a chain of contemplated actions. Ventura cites *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1316.

B. Position of Sierra Club

Sierra Club argues that the Commission must assume the role of lead agency for CEQA purposes and address every potentially significant effect

caused by usage of all the water resources shown as available in the WMP. According to Sierra Club, no agency has prepared an EIR on the impacts of Valencia's WMP, and none of the development project EIRs that Valencia submitted for Commission review addresses the cumulative impacts of Valley-wide water demands in the WMP's 10-year growth projection.

C. Position of Valencia

Valencia contends that Ventura has misunderstood the scope and contents of the EIRs[3] that were prepared, approved, and certified by the local lead agencies for the four land development projects for which ALs 88 and 90 propose that Valencia should provide water service. Further, Valencia disputes Protestants' arguments that (1) the four development project EIRs "did not even purport to evaluate any impacts beyond the incremental 5,011 AFY demand"; and (2) "if the Commission does not require an EIR for this WMP, no environmental review of the Santa Clarita Valley regional water supply delivery capability will ever occur." Valencia points out that the two most recent of these EIRs, in particular, include cumulative impact assessments, especially focusing on the adequacy of water supplies to meet long-term growth to the extent of full build-out of the Santa Clarita Valley, including the Newhall Ranch Specific Plan.

Valencia also points out that the EIRs evaluated not only the demand projected for the immediate projects and Los Angeles County's DMS buildout, which is within the scope of the WMP, but also CLWA's Integrated Water Resource Plan (IWRP) Valley-wide buildout scenario, extending well beyond the WMP both in time and scale. Valencia submits that the cumulative

[3] Or, for the Mountain View project, the Mitigated Negative Declaration.

environmental impacts analysis presented in those EIRs includes just the type of "environmental review of Santa Clarita Valley regional water supply delivery capability" that the Protestants are concerned will never be done if the Commission does not do it with respect to the WMP.

D. Discussion

We endorse the principle that a utility project must satisfy environmental review, including (where appropriate) the review of cumulative impacts of the project in conjunction with other projects. We find, however, that the projects at issue here have received environmental review from other permitting authorities, and we may satisfy our own CEQA duties within the role accorded a responsible agency.

In the case before us, it is the extension of Valencia's water service to the four development projects covered by ALs 88 and 90 that must be the subject of the Commission's environmental assessment. The extension of such water service was one element of each development project, and the environmental impacts of the extension of water service were assessed and studied within each of the environmental topical areas addressed by each of the four development project EIRs. Each of the EIRs included a chapter on "Water Resources" and a chapter on "Water Service," and these chapters of the most recent EIRs – for the North Valencia 2 and West Creek developments – analyzed data and reached conclusions similar to those presented in Valencia's WMP.

None of the EIRs prepared for the North Valencia 2, Mountain View, Tesoro del Valle, or West Creek developments concluded that there would be significant impacts with respect to water service or water supply. All of the EIRs concluded that there were no significant water supply impacts, as an adequate supply of water existed for the anticipated demand of all projects within the

then-current DMS, which included the cumulative demand of all four of those projects. Accordingly, the analysis of water facilities construction and water resource issues in these EIRs is sufficient for the Commission's consideration of the environmental impacts of the present project - "review and approval of the WMP in conjunction with ALs 88 and 90."

Approval of the advice letters by the Commission will entitle Valencia to serve the four development projects associated with the advice letters. Approval of the WMP will not "entitle" Valencia to pump groundwater or to take deliveries of SWP water from CLWA. Those "entitlements" already exist. In fact, because the groundwater basin that Valencia serves is unadjudicated and because of CLWA's "first come, first serve" policy for distributing SWP water, Valencia and the other three water purveyors in the basin (Santa Clarita Water Company, Newhall County Water District, and Los Angeles Water District No. 36) require no additional entitlement to obtain the water supplies they may need to serve customers within their authorized service areas. The only entitlement before the Commission is for Valencia to expand its service area to serve the four new developments.

The relevant EIRs have already considered, and mitigated as necessary, the potential environmental impacts of the provision of water service to the four land development projects. In the relevant EIRs, the only additional consideration presented by Valencia's ALs 88 and 90 is whether Valencia should be the provider of that water service. We find that Valencia's ready access to sources of water supply and the contiguous location of the land developments to its present service area make it the lower cost provider of water service to the future customers in these developments.

Considering the shared character of the water resources available to Valencia and other retail water purveyors in the Santa Clarita Valley, such as the unadjudicated groundwater basin and the water resources, including SWP water, available on a "first come, first served" basis through CLWA, it can be seen with certainty that there is no possibility of significant environmental impacts arising from the choice of Valencia, rather than one of the other retail purveyors, to provide water service to the North Valencia 2, Mountain View, Tesoro Del Valle, and West Creek developments. Accordingly, we conclude that no further review of environmental impacts is required with regard to the Commission's authorization of Valencia to be the water provider.

The CEQA Guidelines define a "responsible agency" as "a public agency which proposes to carry out or approve a project, for which a lead agency is preparing or has prepared an EIR or negative declaration." (14 Cal. Code Regs. ("CEQA Guidelines"), § 15381.) For purposes of CEQA, the term "responsible agency" includes all agencies other than the lead agency that have "discretionary approval power" over the project. (*Id.*) The approvals referred to in the definition are those *within the jurisdiction* of the responsible agency, rather than approval of the project as a whole. (See, e.g., Public Resources Code § 21153(c).)

In the present case, the Commission has responsibility for approving ALs 88 and 90, which are necessary water service approvals for the four land development projects whose respective EIRs were certified either by Los Angeles County or the City of Santa Clarita as lead agencies. Thus, the Commission is a responsible agency with respect to providing water service to each of those approved projects.

To comply with CEQA, a responsible agency must consider the final EIR prepared by the lead agency and reach its own conclusions on whether and how to approve the project involved. (CEQA Guidelines 15096(a), (f).) Before reaching a decision, a responsible agency must consider the environmental effects identified in the EIR of those activities that it is required to approve or carry out (in this case, the provision of water service), and it must independently decide whether to require additional environmental documentation. (Pub. Res. Code § 21002.1(d); CEQA Guidelines 15096(a), (f).) Under CEQA Guideline 15096(g)(1), a responsible agency need consider and adopt alternatives or mitigation measures designed to mitigate or avoid direct or indirect environmental effects *only with respect to those parts of the project it decides to* carry out, finance or *approve*.

A responsible agency, like a lead agency, must make the findings required by Public Resources Code § 21081 and CEQA Guideline 15091. In view of the limited scope of the responsible agency's role, it is sufficient for a responsible agency to indicate it has considered the EIR and to make or adopt findings only for environmental impacts that will result from the responsible agency's decision and that are subject to its jurisdiction.

Thus, as a responsible agency with respect to the provision of water service for the four approved development projects that AL 88 and 90 propose to have Valencia serve, the Commission's obligation is to review the EIR for each of the development projects with particular attention to the discussion of, and findings on, the environmental impacts related to water resources.

The Commission, in its role as responsible agency, has reviewed the EIRs and the WMP. Furthermore, this proceeding has produced a thorough and extensive evidentiary record covering the supply and demand requirements of

the water purveyors in the Santa Clarita Valley, including Valencia, for the time frame covered by the WMP. This proceeding has entailed one interim decision by the Commission, numerous rulings, two prehearing conferences, testimony by 18 expert witnesses, eight days of hearings covering 1,100 transcript pages, and receipt into evidence of 66 exhibits. This record amply supports our determination to act as a responsible agency under CEQA.

We now turn to Ventura's arguments regarding the proper application of CEQA in this proceeding. Ventura contends that CEQA requires the Commission, before approving Valencia's WMP, to evaluate the environmental impacts of increases in groundwater pumping over the next 20 years to the levels shown as available in the WMP. According to Ventura, "[t]he decision at issue now is the approval of Valencia's WMP," and so "the long-term consequences of the WMP's increasing reliance upon groundwater sources to meet cumulative regional demand" must be the subject of CEQA review.

In this proceeding, the Commission determined that the WMP "in conjunction with" ALs 88 and 90 was a "project" for CEQA purposes. The combination of a general WMP plus the advice letter specific requests for entitlements on the basis of that WMP is what the Commission found to comprise a "project" requiring assessment of potential environmental impacts. (D.00-10-049, mimeo. at 22, 24 (Conclusion of Law 1).

Ventura refuses to accept that the application of CEQA to this proceeding is with respect to "the WMP in conjunction with ALs 88 and 90." According to Ventura, "this proceeding concerns three separate requests for approval" of the WMP, AL 88, and AL 90, and "the language 'in conjunction with' does not permit CEQA review of ALs 88 and 90 instead of the WMP." Nor, according to Ventura, may the Commission substitute EIRs prepared for the four

development projects for CEQA review of the WMP as a whole, or focus environmental impact assessment on the incremental demand increase of 5,011 AFY for ALs 88 and 90 instead of the regional impacts of supplying water in the quantities listed in WMP Figure III-2, attached as Appendix A to this decision.

We believe that Ventura's position is unsustainable either procedurally or substantively. Procedurally, the definition of the "project," for CEQA purposes, is "the WMP in conjunction with ALs 88 and 90." D.00-10-049 made that determination, and the Assigned Commissioner's ruling of December 21, 2000 confirmed it. But the WMP, standing alone, is not a "project," and so it makes no sense and it is not legally required for the Commission to undertake a review of the potential environmental impacts of the possible use of all the water resources that the WMP presents as "available" over the ten to 20-year forecast period of that document.

While recognizing the applicability of CEQA to the "project" that was "the WMP together with ALs 88 and 90," the Commission also noted that local lead agencies had prepared EIRs for the land development projects to which AL 88 and AL 90 relate, and saw no reason to duplicate CEQA reviews already conducted by those lead agencies. This is why the Commission ordered Valencia to submit, along with its PEA, copies of any EIRs relating to the advice letters and evidence of any final local agency actions relating to those EIRs. (D.00-10-049, mimeo. at 22-23, 25 (Ordering Paragraph 1).)

Ventura complains that Valencia's approach entirely avoids CEQA review of the WMP. That is not true. Valencia has accepted the need for environmental assessment with respect to the defined "project" – the WMP in conjunction with ALs 88 and 90 – and has furnished all relevant documentation

used by the local lead agencies that conducted full-blown EIRs with respect to the development projects that ALs 88 and 90 proposed to serve. Analysis of the environmental documentation for those projects, including the demand projected for the DMS buildout and for the long-term WMP Valley-wide buildout scenario as provided with the PEA, reveals a high degree of consistency with the evidentiary record developed in this proceeding with respect to the WMP.

Ventura claims that CEQA requires evaluation of the environmental impacts of "making available" the quantities of water estimated in WMP Figure III-2, with particular attention to "making available" the increment of water supplies estimated in comparison to what is now being relied upon. The problem with this assertion is that the WMP does not, and Commission approval of the WMP will not, "make available" any water supplies. The WMP merely estimates the volumes of water resources that are and will become available from various sources. To that extent, the WMP is – as noted above – simply a planning document.

Ventura's reliance on *Planning & Conservation League v. Department of Water Resources* (DWR) (2000) 83 Cal.App. 4th 892, 903-905 is misplaced. The issue in that case was the delegation of DWR's responsibility to prepare an EIR to another party. In the case before us, there is no such delegation – the EIRs have been prepared and certified by the lead agencies for the four development projects that are the subject of ALs 88 and 90. Also, the Commission is not delegating the responsibility for preparing an EIR for the WMP itself, because no such EIR is required for the WMP standing alone.

The Commission was clear, in this case, to identify the "project" for CEQA purposes as the WMP "in conjunction with" ALs 88 and 90.

Some of the actions that will "make available" new sources of water supply for the Santa Clarita Valley will be actions already taken or to be taken in the future by public agencies such as CLWA or by private entities that require permits or planning approvals from local or state agencies. Those actions will call for assessment of potential environmental impacts in accordance with CEQA. The WMP does not have such impacts; its impacts arise in connection with the demand-related entitlements – ALs 88 and 90 – that may be granted in conjunction with approval of the WMP and that may generate a 5,011 AFY near-term increase in Valencia's water demand. It is the impacts associated with that 5,011 AFY demand increase that are properly the subject of CEQA review in connection with this proceeding. These and other impacts of the four development projects are fully addressed in the four sets of environmental documents already completed and certified by the local agencies.

Given the Commission's role as a responsible agency reviewing EIRs certified by local lead agencies, Ventura's citation to the *County of Sonoma* case and its "low threshold requirement for initial preparation of an EIR" is simply beside the point – EIRs have been prepared and certified by the lead agency which include extensive analyses of project and cumulative impacts on water supplies. As responsible agency, the Commission has reviewed those EIRs and the findings supporting them. The EIRs did not identify any significant environmental impacts related to water service or water supply. No further CEQA review is required.

We believe that the analyses in these EIRs are sufficient to meet the requirements of CEQA. The local lead agencies have approved and certified all the EIRs, and their actions are final and no longer subject to judicial review,

except in the case of West Creek, for which a timely petition for writ of review was filed and remains pending, but without any injunctive effect.

V. The WMP[4]

WMP Figure III-2 summarizes total water supply available for Valencia and the other retail purveyors. It shows a range of supply from 156,900 acre-feet (AF) to 142,800 AF from wet years to dry years, respectively, with the relatively high "dry year" value achieved through inclusion of "firming" supplies.

Protestants contend SWP deliveries, especially during drought years, will not be sufficient to avoid overpumping, thereby causing permanent damage to the groundwater basin. Also, Protestants contend that the reliance on certain groundwater supplies should be reduced, due to a contamination problem, and that water demand for the proposed Newhall Ranch Specific Plan should be included in the WMP.

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[4] The Urban Water Management Planning Act, Water Code § 10610 *et seq.*, originally enacted in 1983, requires every urban water supplier – of which Valencia is one – to prepare and adopt an urban water management plan (UWMP) and to update its plan at lease once every five years. (§§ 10620, 10621.) The adopted and amended plans must be filed with DWR, which must, in the succeeding year, submit a report to the Legislature summarizing the status of such plans. (§ 10644.) Water purveyors, such as Valencia, are required to include in their UWMPs descriptions of their service areas, identification of existing and planned sources of water, description of the reliability of their water supplies, quantification of past, present and projected water use, and description of water demand management measures being implemented or planned. (§ 10631.)

Similarly, the Commission, following its investigation into the effects of drought on the regulated utilities, requires Class A water utilities to file a WMP with each general rate case application (D.90-08-055). Typically, a WMP filed with the Commission is an updated version of the water utility's last UWMP, as is Valencia's WMP filed in this proceeding.

Valencia disputes these assertions. Among various rebuttal arguments, Valencia endorses CLWA's management practice of securing additional entitlements and "firming supplies" only three to five years before needed, to avoid imposing unneeded costs on its current customers.

We find that the WMP provides a reasonable estimate of the water supplies available, including groundwater from the Alluvial Aquifer and the Saugus Formation, imported water from SWP, supplies to be acquired through CLWA's capital improvement program, and recycled water. Also, we find that CLWA's plan for short-term drought, firming water supplies when availability of SWP water is reduced in times of drought, is reasonable, and that the WMP need not be modified to account for the Newhall Ranch Specific Plan. These findings are discussed and supported below.

A. Water Demand

WMP Figure III-2 shows that the updated demand for both existing and Valley-wide DMS build-out is calculated as 87,010 AF. The WMP relies on Los Angeles County's DMS to forecast future water demands, noting that the County maintains DMS and includes in that data base existing and projected water demands from all development projects for which a tract or subdivision map has been filed. According to Valencia, the County's DMS report provides the most accurate and up-to-date summary of all building activity and corresponding water demands likely to receive water service from Valencia and the other retail purveyors in the foreseeable future.

For Valencia itself, the WMP report estimates total demand of 23,088 AF in 2000 rising to 32,406 in 2010 and 40,978 AF in 2020. This forecast for Valencia reflects an annual usage factor for single-family residential connections of 0.6 AFY and a long-term growth rate of 800 customers per year. Similarly, in

accordance with the Commission's preferred methodology, Valencia calculates demand separately for each customer class and aggregates the result.

Donald Howard, a civil engineer with experience performing technical studies and testifying before the Commission on behalf of a range of water utilities, prepared an independent analysis of future water use for Valencia. He concurred with Valencia's analysis of usage by customer class, and performed his own study using a Commission-recommended forecasting program. The results of his study indicated somewhat lower future usage by the bulk of Valencia's customers than projected in the WMP. To be conservative, he recommended using the Valencia's WMP results for long-term purposes, but believed his projections were more accurate for the shorter term. Howard's testimony is uncontroverted.

Protestants asked our consideration of the long-term consequences of planning changes under consideration by the County of Los Angeles in connection with the Newhall Ranch Specific Plan. This is a project of the Newhall Land and Farming Company that may eventually lead to the construction of real estate developments including some 21,000 homes. Robert DiPrimio, Valencia's president and policy witness, stated that the WMP's demand projections do not account for development that may occur pursuant to the Newhall Ranch Specific Plan, because no tract maps have yet been filed with the County for any significant portion of such developments, and so the water demands associated with such developments are not in DMS. He testified that as a water utility manager, he was unwilling to include in his Water Management Program such projects that do not have local approval and are not included in DMS. When asked about the sources of water supply if Valencia were to serve the Newhall Ranch Specific Plan, he refused to speculate, noting that the

proponents of that as-yet unapproved project were proposing sources of supply that may be additional to those reflected in the WMP.

DiPrimio explained that the DMS does not have a time frame associated with it, but he estimated that it covers approximately ten years of development activity. He stated that the WMP's projections of demand for Valencia's own operations, however, look 20 years into the future. These longer-term demand projections do not take into account the prospects for serving Newhall Ranch Specific Plan or any other specific development – they are simply based on an extension of Valencia's long-term experience of residential customer growth at an average rate of 800 customers per year.

He argued that this long-term estimate reflects upswings and downswings in the economy, and so is useful regardless of any specific land development plan that might be approved. He viewed the 800 customers per year growth estimate as "conservative" (on the high side). He pointed out, based on his experience, that in the late 1980s there had been a significant level of growth in the Santa Clarita Valley and when the recession occurred, the number of new customers dwindled to practically zero.

We find that the WMP does not need to separately take into account at this time any additions that may result from the Newhall Ranch Specific Plan. To the extent that any part of the project gets built, in the near term, it is accounted for in the WMP by the 0.6 AFY usage figure and the customer growth rate of 800 customers per year testified to by witnesses Howard and DiPrimio. In any event, Newhall Ranch Specific Plan is not included in ALs 88 and 90. If Valencia proposes to serve Newhall Ranch Specific Plan, we will require the company to file an application requesting authority to expand its service area, provide an updated WMP and advice letter covering any such project. In the

meantime, for purposes of approving the WMP in conjunction with ALs 88 and 90, we find the demand forecast set forth in the WMP to be reasonable.

B. The Alluvial Aquifer and the Saugus Formation

Water purveyors in the Santa Clarita Valley pump their groundwater supplies from two aquifers: the Alluvial Aquifer and the deeper Saugus Formation.

For the Alluvial Aquifer, WMP Figure III-2 shows as available 40,000 AFY in a wet year and 32,500 AFY in a dry year. For the Saugus Formation, it shows as available 20,000 AFY in a wet year and 11,000 AFY in a dry year. Sierra Club and Ventura say these groundwater resources would be overpumped, if pumped to the full extent shown.

Sierra Club foresees a shortfall in water supply if the Newhall Ranch Specific Plan is built within the 10-year planning horizon of the WMP and SWP supplies are curtailed to 4,562 AFY as happened in 1991. Sierra Club contends that even if as shown in WMP Figure III-2, the Alluvial Aquifer and Saugus Formation provide 43,500 AFY in a dry year, these aquifers would supply less than half of the 104,000 AFY demand requirement. According to Sierra Club, such accelerated pumping would overdraft the aquifers at a rate never experienced before.

Ventura has similar concerns. Ventura argues that pumping at rates considerably in excess of the combined average historical pumping rate of about 36,000 AFY would greatly stress the groundwater basin, more so with the addition of the Newhall Ranch Specific Plan.

Valencia disputes the assertions. Valencia witness Joseph Scalmanini, a consulting engineer with expertise in groundwater hydrology, found no long-

term trends toward overuse of these aquifers. In reviewing groundwater level data, Scalmanini consistently found that groundwater levels over the last 30 years were generally higher than over the preceding two decades (the 1940s and 50s). He also found that groundwater quality variations in the Alluvial Aquifer correlated inversely with precipitation and stream flow, without any sustained trend toward water quality degradation. He endorsed the groundwater management practices of maximizing use of the Alluvial Aquifer in the context of a previously reported perennial yield of 32,500 AFY. He noted that this management practice includes intermittent "stressing" of the aquifer by pumping in excess of the perennial yield value for one or more years, without long-term adverse effects.

Regarding the Saugus Formation, Scalmanini testified that there has been no quantification of its perennial yield, although Richard Slade recently estimated short-term yield of up to 40,000 AFY. He also found support in recent experience for a management approach that contemplates pumping up to 40,000 AFY from the Saugus Formation in drought years, followed by periods of lower pumpage to allow recovery of water levels and storage. He considered the components of the overall groundwater supply shown in WMP Figures III-2 to be "very conservative," and he particularly endorsed the logic of relying on the Saugus Formation for firming water supply in dry years.

The only contrary witness with expertise in hydrology was Ventura's Steven Bachman. He presented an analysis of the adequacy of water supplies for Valencia's future use by comparing a long-term demand curve included in CLWA's draft IWRP with a significantly modified version of the available supplies shown in WMP Figure III-2. His major departures from the WMP were to set a maximum dry-year yield from the Alluvial Aquifer of 25,000 AFY and to

look to the Saugus Formation as the only source for dry-year firming supply, discounting to zero the prospects for firming from other sources, both State and private. Based on these and other assumptions, Bachman concluded that the Saugus Formation would be in perpetual overdraft beginning in 2011. Bachman also considered water quality data that suggested to him a general deterioration of water quality in the Saugus Formation, as measured by total dissolved solids (TDS), with increased pumping.

Valencia argues that Bachman's assessment of the WMP's supply scenarios was arbitrary. According to Valencia, a fundamental defect in Bachman's approach was that he contrasted a current snapshot of supply availability to a trend line of demand growth 10, 20, and even 50 years into the future. Valencia witness DiPrimio considers the IWRP's Valley build-out scenario, the source of Bachman's 50-year view, beyond the scope of the WMP and this proceeding. According to DiPrimio, Bachman also disregarded numerous potential future water supplies available to CLWA and the retail water purveyors, and the fact that beyond a relatively modest baseload contribution, the Saugus Formation is intended to be used to meet demands when imported water supplies are reduced during droughts.

Valencia witness Richard Slade addressed Bachman's claim about deteriorating water quality in the Saugus Formation. He studied the same data and concluded that although TDS had increased slightly over time in all five wells studied, the TDS increase was not related to groundwater production from any of the wells. He found "no evidence to suggest that more intensive pumping of the Saugus Formation will increase TDS concentrations in the water supply."

Sierra Club witnesses Plambeck and Kotch challenged Valencia's planned reliance on groundwater resources. Plambeck asserted that the Santa

Clara River "has been over-drafted beyond its safe, perennial yield for the past six years and in 1999 it was over-drafted by more than 10,000 AF." She also claimed that there was no hydrological study that supports extraction from the Saugus Formation of more than 20,000 AFY. Likewise, Kotch pointed to a "trend of overextraction" from the Alluvial Aquifer.

Valencia witness Scalmanini contends that Plambeck's and Kotch's assertions about "overdrafting" from the Alluvial Aquifer fail to recognize that the perennial yield of an aquifer system is a long-term value, and that "overdraft" cannot be concluded simply because recent pumping has exceeded a long-term average number, even if for several years. Further, Scalmanini dismissed the assertion that the system has been pumped in excess of perennial yield over the past six years as not "even close to correct" – especially in view of the "absolute[ly] constant water-level condition throughout the time period that you're asking me about." In short, Valencia believes that its estimate of available groundwater resources and its reliance on those resources to meet both normal and dry year needs, is reasonable.

We find the WMP's reliance on groundwater from the Saugus Formation is within reasonable limits, and we reject Ventura's contention that the Saugus Formation will be in overdraft by the year 2011. Ventura witness Bachman reached this conclusion by using a demand figure of 105,500 AFY for the year 2010 obtained from CLWA's draft IWRP report. He compared this demand figure to the supplies shown as available in the WMP after making downward adjustments to firming supplies. The point that Bachman overlooks is that the supplies shown as available in the WMP are the supplies shown as available for a demand of 87,000 AFY rather than the 105,500 AFY IWRP demand figure he used. Obviously, such a mismatch would provide the shortage

(overdraft) that Ventura forecasts. In short, Ventura has made an "apples and oranges" comparison. We need not address the other adjustments made by Bachman to WMP firming supplies, because Bachman's use of the 105,500 AFY IWRP demand figure overshadows everything else.

C. The Perchlorate Problem

Ammonium perchlorate contamination has been recently detected in four Saugus Formation wells located in or near the Porta Bella property. The parties disagree on how the WMP must account for that fact. Protestants argue that the extent of contamination has not been identified, increased groundwater pumping could spread the contamination, and clean-up might take several decades.

Valencia believes the problem has been fully identified and is well on the way to remediation. Valencia points out that a treatment facility has been licensed for operation in La Puente by the Department of Health Services (DHS), which has found that the technology employed by the facility can reduce perchlorate to a no-detect level.

Protestants cite data from monitoring wells that they believe shows the perchlorate is migrating toward production facilities now relied on for drinking water. Protestants conclude that to stop the migration, Valencia must reduce its pumping from this acquifer, and that the WMP should be revised to show correspondingly lower availability of water supply. Valencia, however, says these data show that groundwater is flowing westward but not that contamination is spreading; in fact, perchlorate has shown up only at the four wells where it was initially reported. Thus, Valencia believes its supply assumptions reasonably consider the perchlorate contamination problem and should not be adjusted.

We conclude that the record supports the WMP's analysis of the perchlorate problem. Specifically, planning for remediation is substantially under way, and production facilities sufficiently remote from the contamination site can be relied upon for the quantities of water that the WMP assumes will be available from the Saugus Formation. Furthermore, the close monitoring of the situation by the water purveyors, CLWA, the California Department of Toxic Substances Control (DTSC), and the U.S. Army Corps of Engineers, reasonably ensures a prompt response to any change in the situation. Consequently, for purposes of the WMP, Valencia is appropriately accounting for the impact of perchlorate contamination on its water supplies.

D. Supply From State Water Project and Firming Resouces

WMP Figure III-2 reflects 95,200 AFY of SWP water being available for use in a wet year, and 47,600 AFY available for use in a dry year. WMP Figure III-2 also shows 50,000 AFY of firming supplies available to make up the difference in SWP deliveries in a dry year.

CLWA is the SWP contractor or wholesaler of imported water for the Santa Clarita Valley. While CLWA's current SWP entitlement is 95,200 AFY, actual availability and delivery can be affected by a number of factors, including hydrologic and weather conditions and conflicting needs of the Sacramento-San Joaquin Delta.

Sierra Club argues that because the SWP must curtail deliveries in some years to as little as 20 to 30% of entitlements, the SWP cannot reliably make up the difference between the WMP's projected demand of 87,000 to 104,000 AFY (including Newhall Ranch Specific Plan), on the one hand, and the total sustained yield capacity of the Alluvial Aquifer and the Saugus Formation.

Regarding Valencia's proposals for securing firming supplies to make up this difference, Sierra Club argues that no documentation of contracts to secure such additional supplies has been provided.

Ventura's assessment, based on a probability analysis, is that the amount of SWP water likely to be received by CLWA is 34,272 AF or less in one year out of 20. Ventura notes that in 1991, the SWP delivered approximately 30% of the entitlement statewide and CLWA received 4,000 to 5,000 AF, or less than 10% of its then 54,200 AFY entitlement. Ventura discounts the availability of the firming supplies described in the WMP to make up any shortfall caused by reduced SWP supplies in a dry year.

Undoubtedly, SWP deliveries will be curtailed, perhaps substantially, in some years. Thus, the WMP's provisions for firming supplies are vital and should be considered together with SWP supply. We examine these provisions below.

The WMP defines "firming water supplies" as alternate short-term supplies (1 to 3 years) made available to local purveyors when imported water is reduced during drought conditions. The WMP refers specifically to three firming supply options: (1) acquiring additional SWP entitlement, (2) the Drought Water Bank, operated by the State of California through DWR, and (3) local supply augmentation. The WMP also refers to several other state programs CLWA can use to firm up SWP supplies when they are reduced, including the Supplemental Water Purchase Program, the Interruptible Water Purchase Program, and the SWP Turn-back Pool. A survey of additional future water resources also is provided.

CLWA witnesses Sagehorn and Takaichi explained that development of these resources is on an "as-needed" basis. CLWA seeks to anticipate and

implement the capital improvements needed to satisfy future water demands without overly burdening its wholesale customers (and their current ratepayers) with the costs of these capital improvements. Because CLWA has taken past steps to increase its SWP entitlement well beyond current and near-term projected demand, and has sufficient capacity available on the California Aqueduct to ensure delivery of the supplies it needs, existing capital assets are sufficient to meet near-term demand. Nevertheless, CLWA is seeking additional SWP entitlements totaling approximately 19,000 AFY from two water districts in Kern County to meet incremental future demand and to enhance service reliability to existing users in the event of future statewide drought.

Sagehorn testified that CLWA has about 4,700 AF of storage in Pyramid and Castaic Lakes for surplus SWP water. He estimates that about 100,000 AFY could be produced for three years in an extended drought by storing unneeded SWP entitlements in underground basins. Sagehorn noted that since 1994, CLWA returned a total of 130,000 AF of water to the SWP, which could otherwise have been stored for use in drought years.

Also, Valencia witness Dendy testified that in a statewide dry year, up to 20,000 AF could be made available to CLWA through the State Water Bank. According to Dendy, the record supports that reliance and even greater amounts, if needed.

For planning purposes, the WMP assumes that Valencia's customers could voluntarily conserve 10% from their normal usage. Valencia believes this is a reasonable and, in fact, conservative assumption given that Valencia's customers voluntarily conserved over 20% during the severe drought year of 1991. However, the WMP does not expressly factor conservation or "demand management" into either the demand or the supply side of its balance of

resources. Thus, this factor does not appear in WMP Figure III-2 either as an adjustment to the various demand levels or as an element of firming supply. Where conservation does come into play is in the definition of Valencia's water reliability goal. That goal, as part of its effort to balance the provision of reliable service with economical operations, is to meet water demands (unadjusted for conservation) 95% of the time, or in 19 out of 20 years. In the remaining 5% of the time, the maximum contemplated supply shortage is 10% – the presumed level of conservation. As DiPrimio testified, planning instead to serve normal demand in a critically dry year would require Valencia and CLWA to invest prematurely in alternative water supplies that might never be needed, producing a significant cost burden to local water companies and their customers.

The Santa Clarita Valley's water purveyors have reserved the Saugus Formation as a firming resource and have decided to maximize production from the shallower Alluvial Aquifer, from which water can be pumped at lower cost. Valencia estimates that, if needed, the Saugus Formation could provide 40,000 AF of firming supplies.

WMP Figure III-2 shows 1,700 AFY of recycled water as available in both wet and dry years. DiPrimio estimated the potential production of recycled water to be at least 10,000 AFY, with the costs declining as a function of increasing production. Such increased production of recycled water for golf courses and landscaping uses makes more supplies of potable water available for residential use.

In summary, Valencia believes that the availability of the range of firming resources described above, now and in the future, substantially obviates any grounds for serious concern about the uncertainty of obtaining full deliveries of SWP entitlement in any particular year.

We find that Valencia has reasonably demonstrated the availability of firming supplies of the magnitude indicated in the WMP. These supplies, in turn, support our finding that the WMP's reliance on SWP water is reasonable.

E. Conclusion

Contrary to the assumptions of witnesses for Sierra Club and Ventura, the amounts of water supply from the various sources listed in WMP Figure III-2 are not presented as an operational plan for how supplies would be used in a particular wet or dry year. The amounts simply show the range of water supplies available to the Valley under a range of weather conditions. The optimal mix of supplies used in a particular year is necessarily a function of prudent management choices by Valencia and the other purveyors based on the conditions in that year. These choices are available because Valencia and the other water purveyors have, as Scalmanini testified, about twice as much supply as there is projected demand.

DiPrimio made a similar point, applicable to the range of water resources available to Valencia, when he testified that:

> "The WMP estimates the availability of groundwater from the Alluvial and Saugus aquifers in a wet year and a dry year scenario, but extraction of water at the levels of these estimates would not be required, in most years, to meet the level of demand presented by the addition of the AL 88 and 90 extensions to Valencia's service area. In any single year and in any series of years, Valencia and other water purveyors in the Santa Clarita Valley will look to a variety of sources to meet the current year's demand. These include water transfers and exchanges, groundwater banking programs, participation in DWR's dry-year supplemental program, voluntary conservation and additional withdrawals from the groundwater basin. . . . The WMP

> estimates supplies that are and will be available – it does not mandate their use." (Exhibit 53 (DiPrimio), at 3.)

In short, the WMP does no more than create a baseline of expectations, at a particular point in time, of the water purveyor's supply and demand. The WMP does not dictate management choices among presently available sources of supply or timely investment in new resources. When performed intelligently, these management choices can augment the available resources while both limiting the incurrence of costs that must be passed on to customers and also avoiding the potential environmental harms that rightly concern the Protestants, and indeed this Commission.

The evidence developed in this proceeding strongly supports the finding that for the relevant forecast period, Valencia has water resources available to meet projected customer demand for its services, including the demand presented by all new development accounted for by Los Angeles County's DMS. The WMP and the related evidentiary record developed in this proceeding is clearly adequate for the Commission to act on Valencia's proposal to extend water service to the four developments covered by ALs 88 and 90. Extending service to large-scale future developments, such as those that may result from the Newhall Ranch Specific Plan, will call for review of more current information, such as the 2000 UWMP or a future update to this WMP. If Valencia proposes to serve this development, it must file an application, an updated WMP and advice letter for such a project.

As is evident from WMP Figure III-2, the increment of demand represented by ALs 88 and 90 comes nowhere near taxing the water resources available to Valencia in a wet or dry year. As discussed in the first half of today's decision, the environmental impacts associated with approval of the WMP in

conjunction with those advice letters, including cumulative impacts, were fully addressed by the EIRs completed and certified in connection with the underlying land development projects. Accordingly, we approve Valencia's WMP.

Valencia has facilities in place that can be extended efficiently into the development areas proposed to be served by ALs 88 and 90. The demand the proposed service extensions would add to Valencia's overall service requirements is modest and well within Valencia's demonstrated water production capacity in both normal and dry years. The extension of Valencia's service area will incorporate development areas that already are enclosed on three sides by Valencia's territory. If Valencia is not authorized to extend its service, one of the other retail water purveyors, drawing from the same shared water resources, will likely take Valencia's place. If that development ultimately is served by another water purveyor rather than Valencia, the cost to extend service will be substantially higher, and the reliability of service less, than what it would be for Valencia. Therefore, the public interest – and particularly the interests of water users in the Santa Clarita Valley – will be served by today's decision approving ALs 88 and 90.

VI. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on November 19, 2001, by Ventura, Sierra Club, and Valencia. Also, comments were received from DTSC and People for Environmentally Responsible Clean Up (PERC), both not parties to this proceeding. Reply comments were filed on November 23, 2001, by Valencia. We have reviewed the comments and made changes to the ALJ's proposed decision where appropriate.

Findings of Fact

1. By Resolution W-4154, the Commission ordered Valencia to prepare an updated WMP to enable the Commission and all interested parties to evaluate the effects of further expansion of Valencia's service area on its water supply.

2. On December 17, 1999, Valencia responded to Resolution W-4154 by filing its application seeking approval of its updated WMP.

3. Protests to the application were filed by Sierra Club, Ventura, and the Commission's Water Division.

4. On March 20, 2000, Valencia filed AL 88 seeking authority to expand its service area to include portions of two land developments known as North Valencia Annexation 2 and Mountain View.

5. On September 19, 2000, Valencia filed AL 90, requesting permission to extend service to two additional developments, West Creek and Tesoro del Valle.

6. On October 19, 2000, D.00-10-049, the Commission ruled that CEQA is applicable to the WMP together with ALs 88 and 90 and ordered Valencia to file

a PEA addressing the service area expansions proposed in the advice letters and reflected in the WMP, and also to submit copies of EIRs relating to the advice letters and evidence of final local agency actions relating to those EIRs.

7. On November 13, 2000, Valencia filed the required PEA and submitted EIR materials for each of the four underlying land development projects, and separately filed a motion for review and approval of ALs 88 and 90 in this proceeding, concurrently with its action on the WMP.

8. An assigned Commissioner's ruling issued December 21, 2000, confirmed the Commission's intent to consider ALs 88 and 90 in conjunction with the WMP and to conclude this proceeding with a single Commission decision addressing both substantive issues and CEQA review.

9. An ALJ's ruling issued May 11, 2001 noted that Commission staff had found the PEA to be complete for CEQA purposes for each of the four development projects Valencia seeks to serve by the pending advice letters, and set further hearings on the advice letters and to allow updating of the record related to the WMP.

10. Further prepared direct and rebuttal testimony was served in advance of two additional days of evidentiary hearings held in mid-June, 2001.

11. The proceeding was submitted for decision upon the filing of opening and reply briefs on August 27, 2001.

12. The WMP evaluates water supply and demand for the entire Santa Clarita Valley as well as for Valencia.

13. The WMP describes the primary sources of water supply available to Valencia as being groundwater from the Alluvial and Saugus aquifers, imported water from the SWP and potentially other supplies acquired through CLWA, and recycled water.

14. The WMP describes the role of firming water supplies in providing alternative short-term supplies when the availability of SWP water is reduced.

15. For estimating future demand, the WMP relies primarily on the projections of Valley-wide and company-specific water demand provided by Los Angeles County's DMS and on projections of growth in its own customer demand based on historical growth trends.

16. For the practical planning and management purposes of a retail water utility, use of the DMS for estimating future demand is more appropriate than use of a scenario that assumes total build-out of the Santa Clarita Valley to the fullest extent permitted by the relevant General Plans.

17. The DMS projections and Valencia's own historic trend of growth in demand provide consistent results indicating total demand for Valencia's services of approximately 32,000 AFY by the year 2010.

18. Water purveyors including Valencia customarily rely on DMS data as providing a reliable basis for estimating demand growth within the time frame appropriate for water system management and planning purposes.

19. Valencia's forecast of demand based on a 0.60 AFY annual usage factor for single-family residential customers is conservative and consistent with Commission-approved estimating methods.

20. Valencia's water reliability goal is to have sufficient supplies available to meet normal water demand in 19 out of 20 years while anticipating a maximum allowable supply shortage in one year of 10% of demand.

21. Diversity of water supply is beneficial in times of drought.

22. Perennial yield of an aquifer is that amount of groundwater that can be pumped from the aquifer over a long period of time without causing an undesirable result.

23. The record indicates that pumping from the Alluvial Aquifer has been and continues to be within the aquifer's perennial yield and that the aquifer is not and has not been in overdraft.

24. The management practice of Valencia and other local water purveyors is to maximize use of the Alluvial Aquifer in combination with imported SWP supplies in normal years while keeping the Saugus aquifer full and available for use during dry years.

25. The WMP's estimates of water supply available from the Alluvial Aquifer, in a range of 32,500 to 40,000 AFY, are consistent with current management practices and well within the aquifer's perennial yield.

26. The WMP's estimate of base water supply available from the Saugus Formation, in a range of 11,000 to 20,000 AFY, are consistent with current management practices and supported by recent experience.

27. The WMP's estimate that up to 30,000 AFY above the lower estimate of base water supply is available from the Saugus Formation as short-term firming supply in up to three consecutive dry years is supported by expert analysis.

28. Improper disposal of ammonium perchlorate at the Porta Bella property resulted in detection of perchlorate contamination in four production wells in the Saugus Formation.

29. Valencia, the other local water purveyors, CLWA, the property owner, the California Department of Toxic Substances Control, and the U.S. Army Corps of Engineers are all actively involved in efforts to characterize the extent of perchlorate contamination on and off the Porta Bella property and to implement remediation efforts.

30. Effective and practical methods are available and in current use for high-volume treatment of water supplies contaminated by perchlorate, allowing for

the restoration of such water supplies for public use and convenient disposal of waste products.

31. Large areas within the Santa Clarita Valley are viable for additional Saugus Formation production wells and sufficiently distant from the perchlorate-affected wells to allow pumping without practical effect on the incidence of perchlorate.

32. It is reasonable to anticipate that the water purveyors of the Santa Clarita Valley will effectively remediate the perchlorate problem originating at the Porta Bella property in a timely manner so as to preserve their ability to rely on the Saugus Formation as a dry-year firming resource.

33. Hydrology expert Scalmanini testified that the groundwater components of the WMP's supply estimates were "very conservative" and his testimony was not effectively refuted.

34. CLWA is a State water contractor with Table A Entitlement to SWP supplies totaling 95,200 AFY.

35. Receipt of full SWP entitlement in a particular year is not assured, but deliveries have been at least 50 % of amounts requested in almost all years.

36. The WMP's estimate that a range of from 50 to 100% of SWP entitlement will be available except in an extreme dry year is reasonable.

37. CLWA's adaptive management approach facilitates development of firming resources when needed at moderate cost.

38. The State has developed or is in the process of developing various dry-year firming supply programs, including the Drought Water Bank, to enhance the reliability of SWP water supplies to contractors such as CLWA.

39. CLWA and Valencia also have opportunities to develop water banking and storage projects and dry year option contracts directly with other owners of water resources.

40. CLWA is in the process of developing recycled water that will eventually produce more than 10,000 AFY of supplemental supply, but the WMP includes only 1,700 AFY of recycled water in its estimates of available supplies.

41. The WMP describes numerous water conservation programs conducted by CLWA and Valencia but does not recognize potential conservation in demand or supply projections.

42. The WMP Figure III-2 provides an accurate and useful comparison of the cumulative volumes of water supply available to water purveyors in the Santa Clarita Valley across a range of weather conditions in relation to current and projected Valley-wide demand over the relevant time period.

43. The comparison of available supply and projected demand presented in WMP Figure III-2 indicates the sufficiency of supplies available to Valencia over the relevant time period.

44. Valencia's current and planned water supplies are sufficient to meet present and future customer needs within the planning horizon of Los Angeles County's DMS.

45. The WMP adequately and fairly describes and estimates the current and future demand for Valencia's water service and the range of water resources reasonably available to Valencia now and in the future to meet that demand over the relevant time period.

46. DMS includes the water demand associated with the development projects addressed by ALs 88 and 90.

47. Valencia is the water purveyor that can most efficiently extend service to the development projects addressed by ALs 88 and 90.

48. The only entitlements Valencia seeks from this proceeding are the entitlements to extend water service proposed in ALs 88 and 90.

49. Two of the four development projects, North Valencia 2 and Tesoro del Valle, were the subjects of EIRs that have been certified and approved by the City of Santa Clarita and the County of Los Angeles, respectively, and are not the subject of any judicial appeal.

50. One of the development projects, Mountain View, was the subject of a Mitigated Negative Declaration certified and approved by the County of Los Angeles (following prior completion of an EIR for a larger project) and not the subject of any judicial appeal.

51. The fourth and most recent development project, West Creek, was the subject of an EIR that was certified and approved by the County of Los Angeles in September, 2000, but documentation of the County's actions was not adopted until December, 2000.

52. The County's certification and approval of the West Creek EIR has been challenged by SCOPE in an action, now pending in Santa Barbara County Superior Court, but no injunctive relief is in effect, a motion for preliminary injunction having been denied July 5, 2001.

53. In certifying and approving each of the above-referenced environmental assessments, the local agency adopted detailed findings and imposed specific mitigation measures as part of a comprehensive mitigation plan.

54. Valencia submitted with its PEA, or thereafter, complete documentation for the environmental review of the four land development projects related to ALs 88 and 90.

55. All environmental impacts that may be associated with the extensions of water service proposed by ALs 88 and 90 were within the scope of the environmental impact reviews that were performed in connection with the related land development projects.

56. The EIRs submitted in this proceeding did not identify any significant environmental impacts related to water service or water supply.

57. Pursuant to CEQA Guideline 15096(i), the Commission has considered the environmental assessments contained in the environmental documents for the related land development projects.

Conclusions of Law

1. The assigned Commissioner's ruling of December 21, 2000, correctly determined that the project under consideration in this proceeding, for purposes of CEQA, is the WMP in conjunction with ALs 88 and 90.

2. The WMP's projections of Valley-wide demand for water service based on DMS and of Valencia-specific demand based on the company's historic demand growth trend are reasonable and sufficient for Valencia's customer service and system planning purposes.

3. The WMP provides a sound basis for concluding that Valencia's current and planned water supplies are sufficient to meet present and future customer needs.

4. Valencia's water reliability goal of having available supplies sufficient to meet normal water demand in 19 out of 20 years while anticipating a maximum allowable supply shortage in one year of 10% of demand is reasonable.

5. The range of supplies the WMP projects as available from the Alluvial Aquifer and Saugus Formation is reasonable.

6. The range of SWP supplies the WMP projects as available is reasonable.

7. The sources and magnitude of dry-year firming supplies the WMP projects as available is reasonable.

8. The WMP's estimate of recycled water supply is reasonable.

9. The WMP's treatment of water conservation programs and potential is sufficient.

10. Environmental review is required with respect to Valencia's requests for entitlement to extend water service to the four development projects.

11. The proper role under CEQA for the Commission in considering approval of the WMP in conjunction with ALs 88 and 90 is that of a responsible agency.

12. As a responsible agency, the Commission's responsibility is to review and to consider the EIR or Mitigated Negative Declaration, as applicable, for each of the four land development projects to which ALs 88 and 90 relate in accordance with CEQA Guideline 15096(i) with particular attention to impacts on water resources, to determine whether further study is required, and to make appropriate findings.

13. Based on the evidentiary record developed in this proceeding and the environmental impact assessments prepared for the land development projects related to ALs 88 and 90, no additional review of environmental impacts relating to water resources is required.

14. Valencia's WMP should be approved.

15. Valencia's Advice Letters 88 and 90 should be approved.

O R D E R

IT IS ORDERED that:

1. Valencia Water Company's (Valencia) 1999 updated Water Management Program is approved to the extent that it establishes that Valencia has sufficient

water resources available to serve the projects described in Advice Letters 88 and 90.

2. Valencia is authorized to extend its service area to provide public utility water service to the North Valencia 2, Mountain View, West Creek and Tesoro del Valle developments as described in Advice Letters 88 and 90.

3. Advice Letters 88 and 90 are accepted for filing and shall become effective as of the date of this decision.

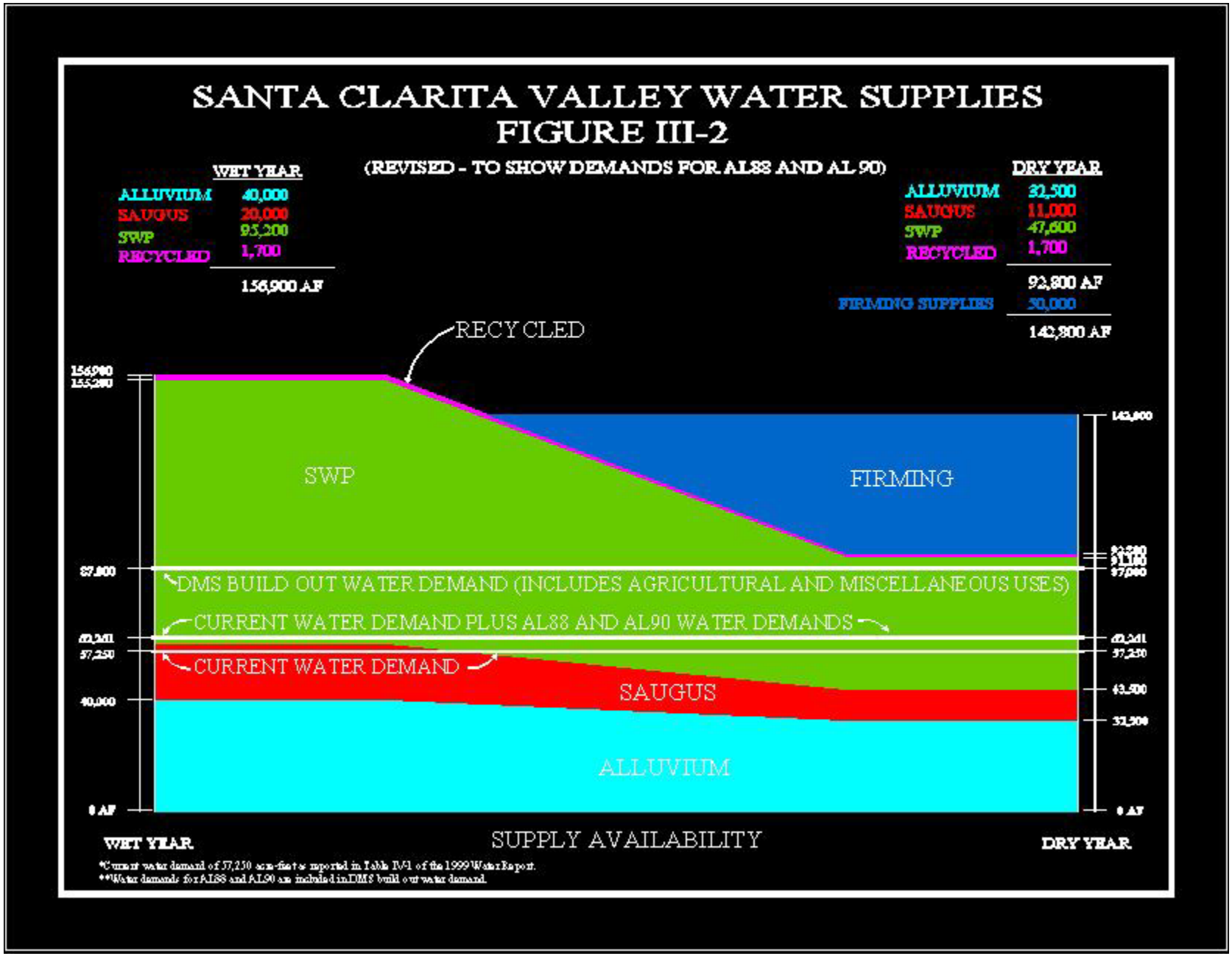
4. If Valencia proposes to expand its service area to serve the Newhall Ranch Specific Plan, or any part of it, Valencia shall file an application requesting authority to expand its service area, and provide an updated Water Management Program and advice letter covering any such service area expansion.

5. This proceeding is closed.

This order is effective today.

Dated November 29, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners



(END OF APPENDIX A)

APPENDIX B
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Acronyms and Abbreviations

AF – Acre-feet

AFY – Acre-feet per year

ALJ – Administrative Law Judge

ALs – Advice Letters

CEQA – California Environmental Quality Act

CLWA – Castaic Lake Water Agency

D. – Decision

DHS – Department of Health Services

DMS – Los Angeles County's Development Monitoring System

DTSC – Department of Toxic Substances Control

DWB – State Drought Water Bank

DWR – Department of Water Resources

EIRs – Environmental Impact Reports

Friends of the River – Friends of the Santa Clarita River

ISEP – Ion Separation

IWRP – Integrated Water Resource Plan

NCWD – Newhall County Water District

North Valencia 2 – North Valencia Annexation-2

PEA – Proponents' Environmental Assessment

PHC – Prehearing Conference

SCOPE – Santa Clarita Organization for Planning the Environment

SCWC – Santa Clarita Water Company

Sierra Club – Angeles Chapter of the Sierra Club

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SWP – State Water Project

TDS – Total Dissolved Solids

UWMP – Urban Water Management Plan

Valencia – Valencia Water Company

Ventura – County of Ventura

Water Division – Ratepayer Representation Branch of the Commission's Water Division

WMP – Water Management Program

(END OF APPENDIX B)