

10-year lawsuit nearly settled

By Malia Spencer/SENIOR STAFF WRITER

After a decade of lawsuits, the battle over rights to the Santa Maria Valley's groundwater is just about over - barring any lengthy appeal.

Santa Clara County Superior Court Judge Jack Komar handed down a proposed judgment in the case that has ensnared local governments, a private water company and hundreds of landowners since it began in 1997.

It is expected that Komar will sign the judgment, making it final, on Aug. 16. However, the losing parties in the judgment have a right to appeal.

The case began when the Santa Maria Water Conservation District sued several public purveyors because of fears that the importing of state water and the growing consumption of city residents would erode the traditionally superior water rights of farmers and ranchers.

The city of Santa Maria was ordered to file a cross-complaint against anyone with 10 or more acres in the valley, and the case eventually ballooned to include other cities, private companies and landowners from Pismo Beach to Orcutt.

At one time there were more than 1,000 parties involved, and over the years water purveyors have imposed sometimes controversial increases in their customers' water rates to recover the money they have spent on attorneys in the 10-year case.

The parties fought for control of native groundwater, water captured from the Cuyama River by the Twitchell Dam before it flows into the Pacific Ocean, and imported state water banked in the groundwater basin.

About 750 parties involved in the lawsuit agreed to a settlement in which public purveyors receive about 80 percent of the Twitchell Reservoir water, while the rural landowners are entitled to the remaining 20 percent.

The settlement allocates water imported by the cities to the municipal interests, and gives landowners pumping rights to native groundwater.

Roughly 70 landowners opposed the settlement and subsequently went to court, and another 200 landowners never took any action.

The holdout landowners who refused to sign the settlement, labeled LOG and Wineman Group in court documents, are known as "non-stipulating parties."

According to the proposed judgment, the city of Santa Maria and Golden State Water Company have been awarded prescriptive rights to groundwater over the non-stipulating parties.

Additionally, the city and the private water company have a right to use the groundwater basin to temporarily store and then recapture the state water that is imported into the area.

Santa Maria Utilities Director Rick Sweet declined to comment Tuesday on the proposed judgment until he could confer with the city's attorney in the case.

Communities in southern San Luis Obispo County, which were also included in the lawsuit and referred to as "the Northern Cities," earned a "complete victory" in the proposed judgment, according to Henry Weinstock, the attorney representing Arroyo Grande, Pismo Beach, Grover Beach and the Oceano Community Services District.

The Northern Cities were found to have a superior right to pump 7,300 acre feet of water per year from their area of the basin, Weinstock said.

An acre-foot is equal to 326,000 gallons, or enough to serve one to three families for a year.

"Non-stipulating parties didn't get any rights in the Northern Cities area," he added.

Everyone involved in the case is also required to monitor the health of the water basin, and the court is retaining jurisdiction in order to ensure the terms of the judgment.

Stewart Johnston, an attorney representing LOG, had no comment Tuesday.

"LOG does not litigate in the press," he said.

Ted Frame, an attorney for the Wineman group, could not be reached for comment.

For those landowners who signed the settlement agreement earlier, the judgment does not alter that stipulation, said Wayne LeMieux, an attorney who represents owners of about 11,000 acres of property.

"(The settlement) says that our overlying rights are confirmed and our rights have not been lost by prescription in the past, nor will they be lost by prescription in the future," he said.

Prescriptive rights refer to public rights that are acquired over private property through a history of use, such as years of access to a beach through private property even if the owner never gave explicit permission.

"The trial is pretty well over with, and we can now turn our attention to the business of managing the basin, something that we have all negotiated for a long time" LeMieux added. Though the trial may be over, there are some aspects still to be discussed, such the costs. Additionally, there is speculation that the non-stipulating groups will appeal the decision.

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July 18, 2007