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Court upholds groundwater basin rule

Decision seen as 'significant victory' for SM and other districts

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Virtually all of an appeal filed over the 2008 decision in the Santa Maria Valley Groundwater Basin lawsuit has been rejected by the state Court of Appeal.

In an opinion issued last Wednesday, the 6th Appellate District court upheld the initial Santa Clara County Superior Court decision.

However, the appeals court did send the decision back to the Santa Clara County court for clarification of two points.

The appeal was filed by two groups of mostly farmers — known as the Land Owners Group and the Wineman group — who did not sign the 2008 stipulated agreement in the lawsuit over rights to water in the groundwater basin.

Lawyers for the water purveyors who were defendants in the case said the decision is a victory for Santa Maria, Golden State Water Co., Nipomo and Oceano community services districts, Pismo Beach, Grover Beach and Arroyo Grande.

"It's a very significant victory for the city's long-term water supplies," said Eric Garner, a partner in Best Best & Krieger LLP, who represented Santa Maria in the case.

Henry Weinstock, a partner in Nossaman LLP, who represented the cities of Grover Beach and Arroyo Grande as well as OCSD in the appeal, agreed.

"It's pretty much a complete victory," Weinstock said, noting the court rejected most of the arguments in the appeal.

"They made over 100 arguments," he said of the appellants. "(The court) really only agreed with them on one.

"They didn't reject any fact or conclusion" in the original decision, he said.

Richard Zimmer of Clifford & Brown in Bakersfield, who represented appellant Richard E. Adam, said he had been out of town and as of Monday night had not reviewed the decision, so he couldn't comment.

Ted Frame of Frame & Matsumoto in Coalinga, who represented appellant Edward Wineman, could not be reached for comment Monday night.

The appeal challenged the stipulated agreement approved by Santa Clara County Superior Court Judge Jack Komar.

The agreement assigned certain water rights to the purveyors who use water from the basin that extends from southeast of Santa Maria to Pismo Beach.

The appellants said a “physical solution” was not necessary because the basin is not in overdraft and challenged purveyors’ prescriptive rights to water they said was lost through lack of use.

They also claimed the trial court erred by not declaring the landowners’ overlying rights supreme and in allocating return flows and salvaged water to the purveyors.

The Court of Appeal disagreed, noting an overdraft condition is not required for the court to impose a physical solution.

It also upheld the decision that gave annual prescriptive rights of 5,100 acre-feet to Santa Maria and 1,900 acre-feet to Golden State Water of the “native water,” or what would occur naturally in the basin.

The appeals decision said that applies even if the basin is in overdraft, Garner said.

“That’s not a right (the city) got in the stipulation,” he said.

It also agreed the “salvaged water” stored in the basin from the Twitchell Reservoir project was properly assigned to members of the Twitchell Management Authority by the stipulation.

The appeals court also agreed that “return flows” from water imported from the State Water Project also belong to the city.

However, the appeals court said the Santa Clara County Superior Court should affirm the appellants’ overlying rights to the native groundwater supersede that of the purveyors, minus the prescriptive amounts allocated to Santa Maria and Golden State.

It also ruled the Santa Clara court should clarify that rights to the Twitchell water added to the basin will not invade the appellants’ overlying rights.

In its opinion, the appeals court noted it did not consider most of the appellants’ claims, writing:

“In the present case we have more than 100 volumes of clerk’s and reporters’ transcripts. Appellants’ briefs alone contain over 350 pages and recite over 100 points of error.

“Some of the discussion lacks reference to the record. Some arguments seem to be based upon a misreading of the judgment. Other arguments omit any explanation of how the claimed error works against appellants’ interests; still others fail to include any legal basis for the challenge. We decline to consider these arguments.”