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Judge rejects state board ruling on water rights

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Posted: Friday, February 23, 2018 3:00 am

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A decision issued this week by a Santa Clara County Superior Court judge reaffirms senior water rights held by Tracy and Delta farmers — and those throughout California.

In his ruling, Judge Brian Walsh determined that the State Water Resources Control Board lacks jurisdiction over pre-1914 and reparation water rights in a suit filed by the Byron-Bethany Irrigation District and supported by other Tracy water agencies.



Walsh also ruled that the board, in addition to having lack of jurisdiction, had violated due process in issuing water-pumping curtailment notices in 2015 to BBID and Tracy-based West Side Irrigation District without giving the districts an opportunity to challenge the notices, which were issued in response to drought conditions.

After a Sacramento County Superior Court judge issued a temporary restraining order against the state action, and the state agency issued what it called "a partial rescission order." But by then the curtailment of the district's ability to pump water from Delta waterways had taken effect, and the irrigation districts continued with their suit against the basic premises of the state action. The suit was assigned to a Santa Clara County Superior Court as a neutral venue.

In handing down his decision on senior water rights, the judge left the door open to future state action in restricting water usage if the State Legislature authorizes curtailment actions in time of drought.

Rick Gilmore, general manager of the Byron-Bethany Irrigation District said the district's attorneys are reviewing details of the decision, but he was pleased by the suit's outcome and its implications for water agencies throughout the state.

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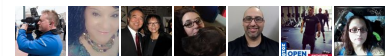
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"We are hopeful that the decision generates momentum for positive change," he said in a press release. "We remain committed to seeking collaborative, substantial to provide fairness and due process for California's water rights holders on behalf of the communities that rely upon the foundation of reliable water."

Joining BBID and WSID in the legal action were Banta Carbona and Patterson irrigation districts and San Joaquin Tributaries Authority.

Contact the Tracy Press at tpnews@tracypress.com or 835-3030.

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