



Santa Clara Valley Water District

File No.: 20-0120

Agenda Date: 2/11/2020

Item No.: 3.6.

BOARD AGENDA MEMORANDUM

SUBJECT:

December 30, 2019 Claim by Great Oaks Water Company Against the Santa Clara Valley Water District for Refund of Groundwater Production Charges.

RECOMMENDATION:

Deny Great Oaks Water Company's claim.

SUMMARY:

Great Oaks Water Company presented a written claim on December 30, 2019, demanding from the District a refund of groundwater production charges paid in Water Year 2019-2020, plus interest.ⁱ Unlike its previous claims challenging the District's groundwater production charges, Great Oaks' most recent claim does not specifically identify the amount to be refunded.ⁱⁱ

We recommend that the District reject Great Oaks' claim in its entirety.

This claim is the most recent in a line of similar claims seeking a refund of groundwater production charges that Great Oaks has submitted each year since 2005. The District has denied all of Great Oaks' previous claims, and Great Oaks has filed a lawsuit following each denial. There are currently fourteen such lawsuits involving Great Oaks and a fifteenth case involving three other parties.

Great Oaks' most recent claim asserts:

- a. That the District's groundwater production charges are assessments on real property and were not adopted in compliance with the procedural and substantive requirements of the California Constitution governing assessments.ⁱⁱⁱ
- b. That the groundwater production charges are taxes and were not adopted in compliance with the procedural and substantive requirements of the California Constitution governing taxes.
- c. That the groundwater production charges are governed by Proposition 26 (Article XIII C of the California Constitution) and that the District failed to comply with the procedural and substantive requirements of Proposition 26 in regard to the charges.^{iv}

- d. That the District has violated the Santa Clara Valley Water District Act by collecting groundwater production charges to fund activities that the Act allegedly does not authorize the District to fund using such charges.

Great Oaks' previous lawsuits against the District were stayed while the first or "lead" case filed by Great Oaks, challenging the District's 2005-06 groundwater production charges, was litigated. That first case led to a decision by the Sixth District Court of Appeal in favor of the District that became final on February 20, 2019, after the California Supreme Court denied Great Oaks' latest petition for review. As such, the lead case is back before the trial court for a determination of whether any claims or issues remain to be decided, and the stay in the other cases against the District will be lifted and those cases will move forward.

Consistent with this history, it is our position that the District's groundwater production charges are not property-related fees, assessments, or taxes; that the groundwater production charges were adopted in compliance with the procedural and substantive requirements of the California Constitution, including Proposition 26, to the extent those requirements apply; and that the District has not used revenue from its groundwater production charges in a manner that violates the District Act. It is therefore recommended that the District reject Great Oaks' latest claim.

If the District rejects Great Oaks' claim, Great Oaks will likely respond, as it has before, by filing a lawsuit seeking a refund of groundwater production charges that it contends the District has illegally collected. We would seek consolidation of any newly-filed case against the District with Great Oaks' other cases.

ⁱ As of the date of this memorandum, Water Year 2019-2020 is ongoing and does not conclude until June 30, 2020.

ⁱⁱ In Great Oaks' previous claims for refunds, Great Oaks challenged the groundwater production charges for the (then) most recently concluded water year and demanded a refund in a specific amount, as well as challenged the groundwater production charges for the (then) current water year. For example, in Great Oaks' June 6, 2019 claim, Great Oaks challenged the groundwater production charges for Water Year 2017-2018 and demanded a refund of \$7,445,913, as well as challenged the groundwater production charges for (then) ongoing Water Year 2018-2019.

ⁱⁱⁱ In its earlier claims and lawsuits filed against the District, Great Oaks argued that the groundwater production charges were property-related fees or assessments under Proposition 218 and that such property-related fees or assessments were not adopted in compliance with Proposition 218. In this claim and its previous claim presented in June 2019, Great Oaks deleted its claims based on Proposition 218, which we believe is a reaction to the California Supreme Court's decision in the *City of San Buenaventura v. United Water Conservation District* case, wherein the court held that groundwater charges were not property-related charges.

^{iv} Great Oaks argued in its earlier claims and lawsuits against the District that the charges do not qualify as fees under Proposition 26 and therefore are taxes that were not approved by the

electorate.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Claim

UNCLASSIFIED MANAGER:

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