



Santa Clara Valley Water District

File No.: 19-0658

Agenda Date: 7/9/2019

Item No.: 3.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Claim of 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:

On June 6, 2019, Great Oaks Water Company (Great Oaks) presented the Santa Clara Valley Water District (District) with a written claim demanding that the District refund \$7,445,913 plus interest in groundwater production charges collected from Great Oaks for the 2017-2018 fiscal year. Great Oaks also demands a refund of any charges that the District will collect from Great Oaks for the 2018-2019 fiscal year. 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 thirteen such lawsuits involving Great Oaks and a fourteenth case involving three other parties.

Great Oaks' most recent claim asserts:

- a. That the charges are assessments on real property and were not adopted in compliance with the procedural and substantive requirements of the California Constitution governing assessments.
- 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 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.
- 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.

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: Great Oaks Water Company's Claim Letter

UNCLASSIFIED MANAGER:

Stan T. Yamamoto, 408-630-2755