



NEWS RELEASE

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COURT UPHOLDS OCWD'S INTERPRETATION OF THE OCWD ACT AND ITS FORMULA FOR PUMPING FROM THE OC GROUNDWATER BASIN

FOUNTAIN VALLEY, CA (July 23, 2018) – Judge Amy Hogue of the Los Angeles Superior Court recently upheld how the Orange County Water District (OCWD) interprets the Orange County Water District Act to calculate the amount of groundwater local retail water agencies, also known as Groundwater Producers, may pump from the Orange County Groundwater Basin when agencies are also utilizing locally-produced recycled water. The ruling upholds OCWD's longstanding determination that the recycled water produced and distributed by Groundwater Producer Irvine Ranch Water District (IRWD) may not be included in the calculation to determine the amount of groundwater that IRWD may pump within the Basin Production Percentage (BPP), without paying the Basin Equity Assessment.

In 1933, the OCWD Act was established by the California Legislature and established how OCWD manages the groundwater basin. Nineteen Groundwater Producers (13 cities, five retail water districts and one investor owned water utility), with a total population of about 2.5 million, pump groundwater from the basin. As a result of amendments to the OCWD Act in 1969, OCWD exercises its groundwater management authority by annually determining the proportion of groundwater that each Groundwater Producer may pump to meet its total water needs without paying a surcharge known as the Basin Equity Assessment (BEA). This proportion, termed the Basin Production Percentage (BPP), is a formula set forth in the OCWD Act that includes, as one of its components, "supplemental sources" of water; the OCWD Act defines "supplemental sources" as sources of water outside the watershed of the Santa Ana River. Groundwater Producers that pump above the set BPP pay the Replenishment Assessment (RA) plus an additional charge, the BEA, for the amount that exceeds the BPP. In recent years, Groundwater Producers satisfy about 75% of their total water demands by pumping groundwater and meet the remaining 25% of their demands from more expensive and less reliable supplemental sources, such as imported water from Northern California or the Colorado River.

One of OCWD's Groundwater Producers, IRWD, operates two recycled water plants within the boundaries of the Santa Ana River watershed, and produces and distributes approximately 20,000 acre-feet per year of recycled water for non-potable uses such as park and golf course irrigation and agriculture. IRWD sued OCWD in 2016 challenging, among other claims, OCWD's interpretation of the OCWD Act as excluding IRWD's recycled water from the "supplemental sources" component of the BPP calculation, because IRWD's recycled water is not a source of water outside the watershed of the Santa Ana River. After the lawsuit was filed, the city of Anaheim, East Orange County Water District, Mesa Water District, Yorba Linda Water District, and Golden State Water Company intervened in the lawsuit to join OCWD's defense against IRWD's claims; these Groundwater Producers alleged that they would be injured if IRWD prevailed in its claims. The lawsuit was then transferred to Los Angeles Superior Court.

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ADD 1-1-1

After conducting a hearing on IRWD's recycled water claims on June 29, 2018, Los Angeles County Superior Court Judge Hogue issued a ruling on July 17, 2018, upholding OCWD's longstanding interpretation of the OCWD Act and rejecting IRWD's argument that OCWD must include IRWD's recycled water within "supplemental sources" of water for purposes of calculating IRWD's BPP. Judge Hogue agreed with OCWD that, "based on the plain language" of the OCWD Act, "the Legislature did not intend to define "supplemental sources" to include recycled water produced within the geographical boundaries of the Santa Ana watershed." Judge Hogue also found that the legislative history of the OCWD Act provisions governing the BPP and the definition of "supplemental sources" "bolsters the Court's conclusion" and supports OCWD's interpretation that IRWD's recycled water cannot be included in the definition of "supplemental sources" of water when calculating the BPP for IRWD.

"OCWD's groundwater basin management practices protect this valuable resource for future Orange County generations and have doubled the annual amount of groundwater that can be sustainably pumped from the basin," said OCWD President Denis Bilodeau. "We appreciate the court's decision and our continued ability to provide reliable water to our agencies."

OCWD has received numerous awards for its sustainable groundwater management practices and was sought by the governor of California and key water policy makers for its expertise during the drafting of the Sustainable Groundwater Management Act of 2014. This legislation established, for the first time, a framework for sustainable management of groundwater supplies in California, and OCWD played a role in its formulation and passage.

About OCWD

The Orange County Water District is committed to enhancing Orange County's groundwater quality and reliability in an environmentally friendly and economical manner. The following cities rely on the groundwater basin, managed by OCWD, to provide 75 percent of their water demands: Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, La Palma, Los Alamitos, Newport Beach, Orange, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda. For more information about OCWD, please visit www.ocwd.com.

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