

9-1-2004

Friends of the Santa Clara River v. Castaic Lake Water Agency, 2004 Cal. App. Unpub. LEXIS 8604 (Cal. Ct. App. Sept. 22, 2004)

John Lintzenich

Follow this and additional works at: <https://digitalcommons.du.edu/wlr>



Part of the [Law Commons](#)

Custom Citation

John Lintzenich, Court Report, Friends of the Santa Clara River v. Castaic Lake Water Agency, 2004 Cal. App. Unpub. LEXIS 8604 (Cal. Ct. App. Sept. 22, 2004), 8 U. Denv. Water L. Rev. 269 (2004).

This Court Report is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

Friends of the Santa Clara River v. Castaic Lake Water Agency, 2004 Cal. App.
Unpub. LEXIS 8604 (Cal. Ct. App. Sept. 22, 2004)

over, the court held the Report and the CIP were not prepared pursuant to any statutory obligation and has no legal consequence for OCWD. Further, CEQA guidelines defined approval as a decision to commit an agency to a definite course of action. CEQA compliance was not required where the agency's action did not constitute a proposal to carry out or approve an activity.

The Cities' argument failed on three key points. First, the Cities contended that by lifting the moratorium on annexation, the OCWD implemented the Report. However, the court held that lifting the moratorium simply reinstated without change an existing annexation policy. Second, the Cities argued that OCWD implemented the Report when formally adopting the CIP, triggering CEQA's project requirement. The court reasoned that the CIP, a budgeting tool used to calculate potential capital projects, was not an essential step in a causal chain resulting in an impact on the environment. Finally, the court upheld the trial court's decision that the engineer's certification of the Report did not equate to approval or commitment. The engineer's statement indicated intent to prepare the necessary CEQA documents, if OCWD wished to implement any of the capital projects in the future.

In conclusion, the court affirmed the trial court's decision, holding OCWD made no commitment to a definite course of action. OCWD's plans were non-binding, fluid, and subject to annual change. OCWD had not indicated intent to approve a project within the meaning of CEQA. In the future, OCWD's approval of one or both of the initiatives would trigger environmental review. However, at this point, the CEQA did not apply.

Jennifer Suh

Friends of the Santa Clara River v. Castaic Lake Water Agency, 2004 Cal. App. Unpub. LEXIS 8604 (Cal. Ct. App. Sept. 22, 2004) (holding in order for a water management plan approved in conjunction with applicable state laws to be legally adequate, the plan (1) must abide by those state laws and (2) address the sufficient reliability of water for the future of the water district).

Friends of the Santa Clara River and others ("Friends") appealed the denial of their petition for writ of mandate alleging that the Urban Water Management Plan of 2000 ("UWMP") prepared by the Castaic Lake Water Agency ("CLWA") violated California state laws requiring water management plans to adequately assess the reliability of water supply for the future of the water district. Public review of the UWMP revealed much opposition to the plan, yet CLWA still approved the UWMP. Friends challenged this approval in the Superior Court of Kern County via a writ of mandate, which the court denied. The Court of Appeals of California, Fifth Appellate District, reversed the decision

and remanded the matter back to the superior court to grant the writ of mandate and vacate CLWA's approval of the UWMP.

State law requires CLWA, as a local water district in California, to produce a water management plan for its district. In 2000 CLWA approved the UWMP, which planned for the use of alternative water sources should the ongoing problem of percholate contamination continue in the area. Historically, most of the water in this region came from an underground aquifer, which suffered from increasing percholate contamination. Thus, the UWMP stipulated that if this contamination continued, CLWA would take more water from the uncontaminated part of the aquifer, as well as restore full aquifer capacity by treating the contaminated water. The UWMP, however, contained no alternative sources to cover the reduction in aquifer water use during the construction of the treatment facilities.

Friends argued the UWMP was incomplete and insufficient. Friends claimed that the UWMP failed to address the time needed to build facilities to treat contaminated water and failed to describe the reliability of the groundwater supply in the interim. The specific claim was that the UWMP did not comply with state regulations because it erroneously conflated existing sources with planned sources of water supply by: (1) improperly characterizing merely potential sources as planned sources already available; and (2) failing to adequately evaluate the reliability of existing water sources. CLWA claimed that all of Friends' claims were merely challenges to the quality of evidence and therefore outside the jurisdiction of review by the appellate court. CLWA also claimed that any deficiency in the UWMP was not fatal to the UWMP's approval because the UWMP required revision every five years.

Both expert testimony and the language of the UWMP itself cited unknown factors in the growing percholate contamination problems in the aquifer. The UWMP recognized that: (1) several wells had already been shut down because of contamination; (2) the contamination spread into other sections of the aquifer; and (3) the cost of treating already contaminated water would be extremely expensive. The UWMP also left out several factors required to sufficiently analyze the future of the aquifer. Specifically, the UWMP failed to: (1) assess the time required to implement the plan; (2) determine the growth speed of the contamination; and (3) propose alternative water sources in the event of widespread contamination. The UWMP also failed to address the timeframe for an installation of facilities needed to treat contaminated water.

Based on the numerous inadequacies in the UWMP, the court determined the UWMP was fatally flawed. The court therefore reversed the judgment of the superior court and remanded the case with orders that the superior court grant the Friends' petition for writ of mandate.

John Lintzenich