

## Water agency loses lawsuit

*Decision could impact Valley water supply*

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INDEX-TRIBUNE EDITOR

A landmark decision by a Sonoma County Superior Court judge may require a complete revision of the Urban Water Management Plan prepared by the Sonoma County Water Agency. And that could impact the amount of future water available to Sonoma.

The plan, mandated by state law every five years, estimates water supply and demand through the year 2030, including the supplies available to agency contractors like the City of Sonoma.

The ruling, by Judge Gary

Nadler, declared that the water agency's plan "is not supported by substantial evidence."

The City of Sonoma has a contract for up to 3,000 acre feet of agency water but has never had to take that much, and current limits on pipeline capacity would make it difficult to receive the full contracted amount. The city's municipal wells provide summertime back-up when needed.

Nadler ruled that the water agency "failed to coordinate with relevant agencies" as required by law and failed to "adequately consider environmental factors," specifically including potential stream-flow requirements to protect salmonid fisheries during times of low water.

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## Lawsuit Continued from A1

The water agency has based much of its future water projections on the assumption that it will receive permission from the State Water Resources Control Board (SWRCB) to increase diversions from the Russian River by 26,000 acre feet, or about 33 percent. (An acre foot is roughly 326,000 gallons, or enough water annually for a suburban family of four.)

That permission has always been predicated, at least in part, on the water agency's ability to demonstrate that it has instituted sufficient water conservation measures to warrant increased diversions. But Nadler ruled that the water agency's plan "fails to explain how, when, and to what extent its water conservation program will reduce water demand."

Stephan Volker, an Oakland environmental attorney who brought the suit on behalf of 14 environmental and community groups, said Nadler's decision proved the water agency "didn't begin to do the hard work" state law requires. "I think they have to start over again from scratch."

Volker said the 46-page decision will have a major regional impact. "The amount of water available in the Russian River is declining substantially," he said. "There are three endangered fish species in the Russian and Eel (from which water is diverted into the Russian River) and those fisheries are

suffering ecological collapse due to mismanagement of both watersheds. There's a changing universe of constraints on water diversion."

Nadler's decision was also critical of the water agency for failing to consult, as required by law, with several key agencies, all with jurisdiction over water flow in the Russian River.

Those agencies include the SWRCB itself, as well as the U.S. Army Corps of Engineers, the National Marine Fisheries Service and the Federal Energy Regulatory Commission.

"The Sonoma County Water Agency just put its head in the sand," said Volker. "Nadler's decision is courageous. It's well-balanced ... now maybe we'll see some long-overdue receptivity to reality. It's time to get past the state of denial."

Changing climate conditions may also impact water levels in both the Russian and the Eel rivers, and there are more than 1,500 legal water diversions in the Russian River watershed (along with an uncounted number of illegal diversions) for which there is no reliable record.

Representatives of the Sonoma County Water Agency said they have not had time to review Nadler's decision, which was not released until Oct. 28. Jay Jasperse, the agency's deputy chief engineer, said Monday, "We're going to have to review the ruling and brief the (water agency's) board of directors," which is composed of the Sonoma County Board of Supervisors. Jasperse said a public agency response to the ruling could not occur until after the board meets on Nov. 18.

The impact of the ruling on the City of Sonoma remains unclear, but the Sonoma City Council expressed suspicion earlier this year about the water agency's rosy predictions.

When the spokesman for a consulting firm preparing Sonoma's own Urban Water Management Plan made optimistic predictions that the city would have safe water supplies through the year 2030, he admitted his estimates were based on

several unproven assumptions, principally including the water agency estimates. The Sonoma City Council ordered the consultants to prepare a revised plan not based on questionable assumptions. When that plan was presented earlier this year, it showed that Sonoma could experience water shortages by 2010.

Sonoma City Manager Linda Kelly could not be reached for comment on Monday, but Councilmember Steve Barbose said, "I'm very concerned about it. Our own Urban Water Management Plan almost incorporated the same faulty data."

Barbose said that in response to water concerns expressed by various members of the community, a joint study session with the city council and the planning commission has been scheduled for Wednesday, Dec. 10 to explore water supply issues.

The meeting will begin at 6 p.m. in the fire station training room, 630 Second St. W. The public is invited.