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Water District Sufficiently Identified Basis For Claimed Statutory Exemption From California Environmental Quality Act Review

In *Great Oaks Water Co. v. Santa Clara Valley Water District*, (--- Cal.Rptr.3d ---, Cal.App. 6 Dist., Jan. 28, 2009) a California Court of Appeal considered whether a water district sufficiently set forth with specificity its basis for claiming an exemption from California Environmental Quality Act ("CEQA") review when it adopted a Resolution to raise groundwater-charge rates. The Court of Appeal held that, although the water district could have been more detailed in its findings, it met the statutory requirement for setting forth its claim for CEQA exemption with specificity.

Facts

The Santa Clara Valley Water District ("District") is a public agency that functions as a wholesale water supplier and provides water to Santa Clara County retail water suppliers through its management of the groundwater basin. The District's major sources of revenue come from imposing charges on groundwater and from its contracts for the sale of surface water from its treatment plants. Half of the water supply in Santa Clara County comes from groundwater basins. The District is authorized to levy and collect a "ground water charge," which "is a tax applied to water extracted from the groundwater basin."

Great Oaks Water Company ("Great Oaks") is a private water utility company that provides groundwater from its wells located in Santa Clara County. Great Oaks is required to pay the District for the charges it imposes for extracting the groundwater from Great Oaks's wells. In 2006, the District's Board of Directors ("Board") recommended ground water rate increases. Great Oaks objected to the increases and asserted that the increases require an Environmental Impact Report ("EIR"). The Board claimed that the rate increases were exempt from CEQA and adopted a resolution increasing "the groundwater-charge rates." In support of the increases, the Board's Resolution referred to an annual report, which

states that the charges "are for the purpose of meeting operating expenses, purchasing or leasing supplies, equipment or materials, and meeting financial reserve needs; and obtaining funds for capital projects necessary to maintain service within existing service areas."

Great Oaks filed a lawsuit against the District. The trial court found in favor of the District on the ground that its Resolution "sufficiently identified the specific basis for the claimed statutory exemption from CEQA review."

Decision

Public Resources Code Section 21080, subdivision (b)(8) exempts from CEQA review of the establishment or modification of "rates, tolls, fares, or other charges by public agencies," which are for the purposes of meeting operating expenses, purchasing or leasing supplies, materials, or equipment, meeting financial reserve needs, and obtaining funds for capital projects and for maintaining intracity transfers. A public agency claiming such an exemption must "incorporate written findings in the record of any proceeding in which an exemption is claimed . . . setting forth with specificity the basis for the claim of exemption." Great Oaks claimed that the District failed to meet the specificity standard set forth in Section 21080. The Court of Appeal disagreed and affirmed the trial court's decision.

Great Oaks argued that the District merely parroted the exemption language in Section 21080, and failed to provide any citation to factual support or analysis. Great Oaks claimed that the District was required to cite specific facts from the record and then "provide an explanation in its findings of the rationale or analytical link between the evidence and the ultimate conclusion that the exemption applies." The Court of Appeal held that the District minimally satisfied the "setting forth with specificity" requirement "by its

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identification of the statutory purposes for which it claimed its action to be exempt—the ultimate factual basis for the claim of exemption—coupled with the District Board's Resolution references in related findings to portions of the annual report and other information and evidence provided during the hearing process, all of which are part of the record.”

The court found that the statute does not require “an agency to do more than set forth the specific basis for the ultimate finding—that the rate increases were for one or more specifically identified exempt purposes.” The statute does not require the agency to “set forth ‘with specificity’ its evidentiary subconclusions supporting this ultimate fact or its rationale, instead, only ‘the basis for the claim of exemption.’” Although the findings made by the District could have been more detailed or made more specific references to the facts in the record, looking at the totality of the Resolution, the requirements of Section 21080, subdivision (b)(8) were satisfied.

The court also concluded that the District's findings are supported by substantial evidence. The Resolution contained a finding that the increases in the groundwater rate were “for the purpose of meeting operating expenses, purchasing or leasing supplies, equipment or materials, and meeting financial reserve needs; and obtaining funds for capital projects necessary to maintain service within existing service areas.” All of the District's stated purposes are within the exemptions provided by Section 21080 and CEQA Guidelines. The District's annual report contains substantial evidence to support the conclusion that the increases in groundwater rates are statutorily exempt.

Questions

If you have any questions concerning the content of this Legal Alert, please contact the following from our office, or the attorney with whom you normally consult.

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