

Notes from the CEO

By John Krist

The long-running dispute between the city of Ventura and the United Water Conservation District (UWCD) over United's groundwater extraction charges is headed for the legal big time.

Earlier this summer, the California Supreme Court agreed to hear Ventura's challenge of an appellate court ruling in the case, initially filed in 2011, in which the city argues that UWCD's rate structure is unconstitutional and illegally forces urban water users to subsidize agricultural water users. The two sides have just begun filing their briefs, with a decision not likely until next year.

CFBF's Legal Affairs Division has been authorized to file an amicus brief [with the state Supreme Court] on our behalf, supporting the constitutionality of the Water Code ...

In accordance with the requirements of the California Water Code, UWCD

historically has levied its groundwater extraction fee under a formula that requires urban pumpers to pay three times as much per unit of water as agricultural pumpers. In August 2011, the city sued UWCD over its adoption of rates for 2011-2012, alleging that the differential violated Proposition 218, a constitutional amendment that requires that "property-related fees" be proportional to the cost of the services they fund. The city also argued that because the fee did not meet the proportionality requirement, it was a special tax requiring two-thirds voter approval under Propositions 13 and 26, and that UWCD failed to comply with various other laws regarding utility rate-making.

In August 2012, the city sued UWCD over its adoption of rates for 2012-2013, on the same grounds. The cases were consolidated in Santa Barbara Superior Court, and Farm Bureau intervened on behalf of UWCD to defend the rate differential.

In July 2013, the trial court judge ruled that UWCD had failed to demonstrate that the 3:1 ratio was justified by the cost of service, and ordered United to refund nearly \$1 million in overcharges to the city. The judge rejected the remainder of the city's arguments, however. Both sides appealed, the city asking the court to find the Water Code's 3:1 mandate unconstitutional. Farm Bureau filed an amicus brief de-

fending the constitutionality of the Water Code.

In March of this year, the Second District Court of Appeal ruled in UWCD's favor, finding that the groundwater extraction charge was neither a property-related fee subject to Proposition 218 and its proportionality requirements, nor a tax subject to voter approval under Propositions 13 and 26. Instead, the court ruled, the charge falls under an exemption provided to fees intended to recover the cost of regulatory activity – in this case, UWCD's efforts to manage groundwater.

The city appealed, and the state Supreme Court rather swiftly agreed to hear the case. The court's haste may have something to do with a ruling by a different appellate court, also in March. In the case of Great Oaks Water Co. v. Santa Clara Valley Water District, the Sixth District Court of Appeal ruled that groundwater pumping fees are a property-related fee subject to Proposition 218, the opposite of the ruling in the UWCD case.

With the intense focus on groundwater use in California now, driven by the drought and by the adoption of the Sustainable Groundwater Management Act, contradictory court rulings could prove particularly problematic. Over the next 5 to 7 years, hundreds of groundwater sustainability agencies and groundwater sustainability plans will be established and adopted, and in many cases new groundwater-related fees will be imposed to finance a host of projects and activities up and down the state. In this context, the Supreme Court may be looking for an opportunity to insert some clarity into what may quickly become a chaotic legal picture.

California Farm Bureau Federation's Legal Affairs Division has been authorized to file an amicus brief on our behalf, supporting the constitutionality of the Water Code and protecting our members' substantial economic interest in preserving the 3:1 ratio.

Judge tosses out Central Coast's Conditional Waiver

In a ruling with potentially ominous implications for Ventura County, a Sacramento County Superior Court judge has ruled that the irrigated lands regulatory program for the Central Coast region does not adequately protect water quality, and ordered the State Water Resources Control Board to rewrite it. Some of the provisions the judge found legally objectionable – provisions supported by the agricultural industry because they make the regulations

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Irrigation scheduling works in the Central Valley, not in Ventura

By Ben Faber

Recently I was asked why an irrigation schedule like those developed for almond and citrus in the Central Valley couldn't be created for Ventura County. Here is my response:

Generating a generic irrigation schedule for avocados is very difficult and would be terribly misleading. As you get further from the coast, the water demand (ET_o) increases in many months. This can be most pronounced in the late winter/spring, when fog really causes a contrast between coastal and inland conditions.

In May in Ventura, the sun comes out for about 2 hours, while in Fillmore, 20 miles inland, it may be 90 degrees at 4 p.m. The fog is a major determinant for irrigation demand and it varies daily, monthly and year to year from Monterey to San Diego. So, fog can throw off an irrigation schedule.

The next variable is the topography where avocados are grown, usually on slopes to improve air and water drainage. Depending on the aspect and slope position, the ET_o can vary tremendously with sky conditions and time of day (such as foggy in the morning and clear in the afternoon). Water demand will always be higher on west- and south-facing slopes than on those facing north and east.

The top of the slope, which intercepts more wind than the bottom, will have higher ET_o than the bottom of the slope. And if the trees intercept more evaporative conditions midday when the sun comes out, water demand will be much higher than on the east side in the morning when fog is dripping off the trees (zero evaporative demand). Then as you go south from Monterey to San Diego the ET_o goes up, just because of latitude and sun interception.

These conditions are very different from Fresno, where ET_o in July is 0.6 inches per day (and stays the same until September), the sky is clear most days and trees are grown on fairly flat ground.

Now throw in rainfall. Almonds are deciduous, and the only rainfall that matters is that which is stored in the rooting zone going into spring when leaves are coming out. Avocados, on the other hand, rely on winter rain for transpiration and salt leaching. In a good year a significant portion of the total yearly water demand can be met this way. In a low- or no-rainfall year, that all needs to be made up by supplemental irrigation.

An almond grower in the Valley might be able to go onto a calendar, set the clock if they have water on demand, and walk away. That's never going to happen in a coastal avocado orchard.

Depending on where the avocado is grown and the ET_o at that site, applied water might vary from 1.5 acre-feet per acre to 3.5 acre-feet. This will depend on rainfall (when and how much), water quality (which determines leaching requirement), and the system delivery (system efficiency).

This system issue can be further complicated by whether the delivery is on demand,

or whether a certain amount will be delivered on a certain date for a certain length of time – 24 hours or 48. This makes it difficult for the grower to apply exactly the amount dictated by ET_o and other issues affecting the trees. In this case, the delivery system determines the schedule.

So this is why there's no chart projecting water demand for avocados along the coast, where the bulk are grown in California.

— Ben Faber is a farm adviser in the University of California Cooperative Extension office in Ventura, specializing in soils, water, avocados and minor subtropicals. Contact him at bafaber@ucanr.edu.

Notes from the CEO

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less expensive and onerous to comply with – are similar to provisions in the waiver for the Los Angeles Region, which includes Ventura County.

The Central Coast Region is vast, including all or part of nine counties stretching from the Rincon nearly to San Jose. More than 3,000 farming operations produce crops on the region's 435,000 acres of irrigated land. It also has about 17,000 miles of rivers, creeks and other surface waters, and 4,000 square miles of groundwater basins.

The Central Coast conditional waiver for irrigated lands has a convoluted history. Originally adopted in 2004, one year before the Los Angeles Region's waiver, it was set to expire in 2009 but was extended into 2010 and then again until 2012 while regulatory staff and a wide range of stakeholders, including agricultural and environmental groups, wrangled over language.

The version ultimately adopted was immediately appealed to the State Water Resources Control Board (SWRCB) by numerous parties, agricultural interests contending the regulation went too far and environmental groups claiming the opposite. The SWRCB then began revising the order, producing series of amendments that the Regional Board in 2013 incorporated into a final "modified waiver." The environmental groups, Santa Barbara Channelkeeper among them, sued.

The plaintiffs argued that the waiver had been "weakened" to satisfy agricultural interests, and the judge largely agreed. The judge also called into question the "iterative approach" to water-quality improvements,

a strategy that is at the heart of Ventura County's waiver and compliance program.

This approach recognizes that it takes time to design and implement farm management practices that will improve water quality, and instead of imposing immediate numeric targets on pollutants in agricultural discharges, provides for gradual improvements. Growers must monitor surface water, report instances when contaminants exceed state standards, and implement new and improved management practices to address them. As that cycle repeats over time, water quality should improve.

The Sacramento court found this approach inadequate.

"The Waiver seems to assume that any perceived improvement is enough, as long as the improved management practice was implemented in good faith," the judge wrote. "It is difficult for the court to see how this is an enforceable standard."

The ruling has broad implications for all the irrigated lands programs in the state. But it comes at a particularly delicate time for us. Our region's conditional waiver expires in October, and since early this year we have been in discussions with the Los Angeles Regional Water Quality Control Board staff over the renewal. Until now, these discussions have gone well, and we have been hopeful that the 2015-2020 waiver would look very much like the current one.

Regional Board staffing constraints have delayed the process, however. We recently were informed that the new waiver will not be ready before the October expiration deadline, and that staff will be asking for an extension until March 2016. Which means the Sacramento decision could not have

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Take extra precautions to protect your eyes

By Mike Burns

If you work in or around areas that pose an eye hazard, you should wear eye protection.

Nothing can replace an eye and a few seconds is all it takes to destroy your eyesight. That's the same time it takes to make sure that your eyes are properly protected.

Eye injuries happen much too frequently in the United States. The rate is nearly 2,000 per day. According to the U.S. Bureau of Labor Statistics, three out of five workers who suffered eye injuries wore no eye protection at the time of the injury. And of those who did wear protection, two of every five wore the wrong kind.

Not only should you wear the proper eye protection equipment for your job, please follow all safety instructions. Protective eyewear is only effective when it is cared for and worn correctly. Here are some additional steps to follow to help prevent eye injuries to either you or other workers:

- Conduct a thorough analysis of the work to be done and the equipment that will be used. Inspect work areas and equipment and identify operations and areas that present eye hazards.
- Select protective eyewear designed for a specific operation or hazard. Protective eyewear must meet Occupational Safety and Health Administration (OSHA) standards.
- For best protection against eye injury,

wear eye protection whenever it is warranted and require workers to do the same. Allow no exceptions.

- Make sure you clean and store the protective eyewear properly.
- Protective eyewear that doesn't fit properly and comfortably should not be used. Have it fitted by an eye care professional.
- Plan for an emergency. Establish first-aid procedures for eye injuries. Make eyewash stations accessible, particularly where chemicals are used. Train employees in basic first aid and identify those with more advanced first-aid training.
- Educate and review. Conduct ongoing educational programs to establish, maintain, and reinforce the need for protective eyewear. Continuously review and when necessary revise your accident prevention strategies.

State Fund has a wealth of information on safety topics available for easy access on our Website at www.statefundca.com. Click on the "Safety & Seminars" section at the top of the home page to find the extensive list of topics.

— Mike Burns is Farm Bureau Group manager for State Compensation Insurance Fund. Contact him at mjburns@scif.com. Since 1943, the California Farm Bureau-State Fund partnership has provided affordable worker compensation insurance coverage and accident prevention training for agricultural employers and their employees.

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come at a worse time: Regional Board staff is evaluating the ruling with an eye toward modifications that might be needed in our waiver to address legal deficiencies singled out by the judge.

In light of this, I have been in touch with CFBF's attorneys, who took the lead in representing agricultural interests during the Central Coast Region's waiver negotiations. We will be working together to modify our strategy as the renewal process continues.

Fortunately, our data indicate that the current approach is working in Ventura County. In contrast to conditions in the Central Coast Region, our water quality is not deteriorating; it is generally stable or improving. Telling that story will be a key part of our strategy.

Join our SGMA network

To help growers and landowners keep up to date on the latest news and information about local groundwater management, Farm Bureau of Ventura County has established an email distribution list. Initial signups were collected during a workshop earlier this summer, which FBVC hosted to brief the agricultural community on efforts under way to implement the Sustainable Groundwater Management Act (SGMA).

The first email update may be found here: bit.ly/SGMAupdate82515. If you wish to be added to the distribution list for future updates, please sign up at bit.ly/SGMAupdates or send an email to water@farmbureauvc.com.

— John Krist is chief executive officer of the Farm Bureau of Ventura County. Contact him at john@farmbureauvc.com.

Member Benefits

TICKETS & DISCOUNTS

Farm Bureau members qualify for discounts on admission to many of Southern California's most popular theme parks and other attractions. To take advantage of any of these special offers, drop by the Farm Bureau office at 5156 McGrath St. in Ventura. You can also place an order and pay by phone, and have the tickets mailed to you. For more information, contact Cissy Perez-Haas at (805) 289-0155. Have your membership number handy. We accept Visa and MasterCard.

Aquarium of the Pacific — Adult (12+ yrs): \$19.95 (save \$9); Child (3-11 yrs): \$11.95 (save \$3). Valid thru 12/31/15.

California Adventure and Disneyland 1-Day Park Hopper — Adult (10+ yrs): \$144 (save \$6); Child (3-9 yrs): \$139 (save \$5). Valid thru 12/31/15.

Cinemark & Century Theatres — Platinum ticket, valid all show times at all Cinemark & Century locations: \$8.75 (savings \$2.75). Additional premiums may be applied for specially priced films and/or events priced higher than normal box office. No expiration.

Hurricane Harbor — Valencia. General (3+ yrs) \$27.95 (Save \$13.04). Valid any 1 day of the 2015 season.

Knott's Berry Farm — Buena Park/Palm Springs. Adult (12+ yrs) \$36.95 (save \$28.05); Junior (3-11 yrs) Senior (62+ yrs) \$32.95 (save \$2.05). Valid thru 12/31/2015.

Knott's Soak City — Buena Park. Adult (12+ yrs) \$25.95 (Save \$10.05); Junior (3-11 yrs) and Senior (62+ yrs) \$21.95 (Save \$2.05). Valid any 1 day of the 2015 season.

Legoland — "E" tickets only. Adult (13+ yrs) \$74.95 (save \$10.05); Child (3-12 yrs) \$69.96 (save \$9.05). Includes 2nd day free ticket within 90 days of 1st visit.

Resort Hopper Ticket — "E" Ticket only. Adult (13+ yrs) \$79.95 (save \$29.05); Child (3-12 yrs) \$74.95 (save \$28.05). Includes 2 visits to Legoland, including new Waterpark (seasonal) and 2 visits to Sea Life Aquarium. Valid thru 12/31/2015.

Magic Mountain — \$43.50 (savings \$26.49) General use ticket (3 yrs. +). Valid thru 9/27/15.

Raging Waters — San Dimas. General \$30.95 (Save \$11.04, must be taller than 48"). Valid any 1 day of the 2015 season.

Regal Cinemas — Unrestricted tickets \$8.75 (regularly \$9.50 Sun.-Thurs, \$10 Fri.-Sat). Good at Edwards, Regal, Signature and United Artists Theaters. No expiration.

San Diego Safari Park — (Formerly Wild Animal Park) Adult-African Tram Safari: \$40.75 (save \$7.25) (12+ yrs); Child-African Tram Safari: \$33 (save \$5) (3-11 yrs). Africa Tram Safari includes admission, unlimited use of the Journey into Africa Tour, Conservation Carousel and other shows/exhibits. Valid through 12/31/15.

San Diego Sea World - 2nd Day Free Ticket. First Visit must occur on or before 9/30/15. 2nd visit valid thru 12/25/2015. Adult (10 yrs. +) \$57 (save \$32); Child (3-9 yrs.) \$57 (save \$26). **Summer Special.** Weekday one-visit ticket, valid thru 9/30/2015; Adult (10+ yrs) \$50 (save \$39); Child (3-9 yrs) \$50 (save \$33). Available thru August 31, 2015 (excludes Sat & Sun).

San Diego Zoo — Adult (12+ yrs): \$40.75 (save \$7.25). Child (3-11 yrs): \$33 (save \$5). Includes admission, unlimited use of Guided Bus Tour, Express Bus, Skyfari Aerial Tram and all shows & exhibits. Valid through 12/31/15.

See's Candy gift certificate — One-pound box \$15.45 (Save \$2.05). No expiration.

"E Tickets" — Disneyland: 1 Day Hopper Adult \$149, Child \$144. Universal Studios, buy 1 day, get "2015" FREE (3+ yrs). Valid thru 12/31/15. Blackout dates apply after first visit.

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