



Urban Water Management Plan Upheld - Court Defers to Water Agency's Expertise

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In a decision of significant importance to water agencies, purveyors and planners, the California Court of Appeal recently upheld an Urban Water Management Plan ("UWMP") prepared by the Sonoma County Water Agency ("Agency"). (*Sonoma County Water Coalition v. Sonoma County Water Agency*, Case No. A124556). Under state law, UWMPs must be prepared or updated every five years and provide the basis for water resource decision-making over a 20 year time horizon. The trial judge originally determined that the Agency's UWMP was invalid and not supported by "substantial evidence." The California Court of Appeal disagreed, reversing the lower court for failing "to accord deference to the expertise and discretion of the Agency." In a time when the projected certainty and availability of water supplies are complicated by prolonged drought conditions, environmental regulatory constraints, limits on imported water sources, and a variety of other factors, the decision provides needed clarification to the elements necessary to prepare a defensible UWMP.

The Sonoma lawsuit was initiated by a coalition of 14 citizen organizations seeking to set aside the Agency's UWMP. The organizations alleged that the Agency's water estimates were inflated, did not adequately address environmental concerns, and failed to provide the detailed water supply information required by the Urban Water Management Planning Act, Water Code section 10610 et seq. ("UWMPA").

In reversing and remanding, the appellate court made several key findings. First, recognizing that "some level of uncertainty is a permanent, inherent feature of modern water management," the court held it was error for the trial court to substitute its judgment for that of the Agency, and in doing so it failed to give appropriate deference to the Agency's expertise. The court stated:

"Water management is subject to the vagaries of climate, competing demands from agricultural, industrial and residential uses, environmental constraints, and overlapping regulatory regimes at both the federal and state levels. In rejecting the Agency's conclusions, the [trial] court required a level of certainty not factually attainable and not

required by the statute, and substituted its own judgment as to the reasonableness of the assumptions relied upon by the Agency. This was error."

The court further found that an UWMP is sufficiently specific and certain if the assumptions on which the agency's conclusions are based are explicitly recognized, articulated and supported by substantial evidence. The mere "possibility" that a water source may not be available in the future does not require an agency to develop a backup plan. The court concluded:

"If substantial evidence supports a water supplier's resource assumptions, it would be wasteful of the Agency's resources if it were nevertheless required to focus on development of detailed plans for alternatives that its own experts view as improbable. We find nothing in the Act that requires it to do so.....

The administrative record and the Plan itself adequately demonstrate that Agency and its experts articulated the predicates for assumptions on which the Plan is based, and provided the factual basis and expert opinion to support those assumptions, while acknowledging the uncertainties inherent in the process. It considered reasonable probabilities—not simply possibilities—in its analyses, and the Agency did not abuse its discretion. UWMPA does not require more."

The court also rejected the argument that the UWMP was invalid because the Agency did not coordinate with a variety of state and federal agencies, including the State Water Resources Control Board, the Army Corps of Engineers, the Federal Energy Regulatory Commission, and NOAA Fisheries. The court found that, in carrying out its duty to "coordinate," an agency has "considerable discretion" to determine which agencies are "appropriate" or "relevant" and whether coordination with a particular agency is "practicable."

[View the court's full opinion.](#)

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