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FOR IMMEDIATE RELEASE

October 16, 2013

Court of Appeal Upholds Agency Fees

Watsonville, CA - On Tuesday, October 15th, the Sixth District Court of Appeal issued its ruling affirming Santa Cruz Superior Court Judge Timothy Volkmann's January, 2012 decision validating the augmentation charge adopted by the Pajaro Valley Water Management Agency's Board of Directors in 2010. In a unanimous decision authored by Associate Justice Eugene Premo, the three justice panel rejected a slew of claims levelled against the Agency by Plaintiffs Joseph Pendry, William McGrath and others, including their assertion that the augmentation charge was adopted in violation of Proposition 218, a state-wide ballot initiative approved by the voters in 1996 that specifies the requirements for adopting "property-related" fees or charges like the PVWMA augmentation charge. In the decision, the Court of Appeal actually found that the Agency went above and beyond the requirements of Proposition 218, by conducting an election after fewer than 15% of well owners objected to the augmentation charge increase in a "majority protest" hearing.

Although the plaintiffs still have the option of seeking an appeal to the California Supreme Court, fewer than 10% such appeals are accepted for review. "We hope the plaintiffs take this opportunity to put to rest years of expensive and unnecessary litigation, and begin to work with the Agency to address the serious overdraft problems that continue to persist and threaten the Pajaro Valley's agricultural economy" said Board President Rosemarie Imazio.

"By issuing a 'published' opinion, the Court of Appeal not only affirmed the validity of the 2010 augmentation charge," said special counsel Michael Colantuono, "It clarified a number of issues that water agencies throughout California have struggled with in their efforts to comply with Proposition 218's confusing and sometimes contradictory requirements. This decision vindicates the years of hard work of our Board of Directors and many interested members of the community devoted to developing and winning public support for the 2010 augmentation charge" said General Manager Mary Bannister. "It also gives the Agency a clear framework within which to continue to develop a new rate structure to support the Agency's ongoing Basin Management Plan update" added Agency General Counsel Tony Condotti. The current augmentation charge will expire in October of 2015 if it is not extended or replaced by a new rate structure.

The PVWMA is a public agency whose mission is to protect and preserve the water resources within the agency's jurisdiction, generally the greater coastal Pajaro Valley. More information on the agency and its work is available at pvwater.org.

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