

Supreme Court decision may apply to Nestlé project

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By David Smith

McCloud, Calif. - A Supreme Court decision regarding the California Environmental Quality Act (CEQA) and how it applies to public entities is hoped by some in the McCloud area to be a guiding example in the issue of the possible Nestlé Waters North America McCloud bottling plant.

The McCloud Watershed Council, whose mission is “To support a sustainable community and protect natural resources by providing advocacy and stewardship for the greater McCloud River watershed,” submitted a brief to the McCloud Community Services District (MCSD) regarding the Save Tara vs. City of West Hollywood case, which went all the way to the California Supreme Court.

“We believe that the Save Tara case will be very, very relevant to the MCSD,” said Rachel Hooper, who worked on the Save Tara case and has been practicing law under CEQA cases since 1984.

Save Tara centered around the city of West Hollywood trying to convert a donated parcel of land containing an historic building (“Tara”) into a low-income senior housing complex with underground parking, keeping the historic building as an administrative office and one extra apartment.

Hooper said that the CEQA states that a public entity must complete an Environmental Impact Report (EIR) before officially committing to any defined project. She explained that in Save Tara, the city of West Hollywood had foregone a pre-contract EIR in favor of preparing the report after the signing, which the court deemed to be a violation of CEQA guidelines.

Hooper said that the Save Tara case is related to the McCloud issue because the first contract, which has been terminated, was signed before an EIR was prepared.

Hooper added that an EIR for the first project had been initiated, but was stopped after the project was terminated.

“We don’t want the same pattern to occur,” Hooper said of the relationship between Save Tara and McCloud, “they must go into a contract after complying with CEQA.”

Debra Anderson, president of the McCloud Watershed Council, said, “The part of the puzzle that needs to be put in is the science on the impact on the water,” adding that ultimately the Watershed Council still wants McCloud to “decide if a bottling plant is what we really want.”

Dave Palais, spokesman and natural resource manager for Nestlé Waters North America, said of the letter, “At this point, discussing the potential impact of this court decision on this project is putting the cart before the horse because we have not yet begun contract negotiations with the district.

“Before either the district or Nestlé can consider signing anything, contract terms will have to be negotiated and put before the board for public review and discussion. It is at that point that decisions about when the contract should be signed would happen. The environmental review process for this project will go above and beyond the legal requirements, no matter when a contract is signed in the process.”

Further discussion on the topic is expected on Monday, Jan. 12 at the next MCSD meeting, where the letter from the MWC will be a “communication item” on the agenda.

Further updates will be available following the meeting.