

LOS ANGELES

# Daily Journal

www.dailyjournal.com

VOL. 130 NO. 56

THURSDAY, MARCH 23, 2017

## Oil industry wins with ruling to stop regulation on well injections

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The oil industry got a major victory for well injection techniques when a Kern County Superior Court judge blocked a state regulation that was scheduled to take effect and impose large fines on producers.

The plaintiffs, Western States Petroleum Association and California Independent Petroleum Association, argued that their members were timely in filing applications for exemptions, which got stuck in an unwieldy regulatory process.

Regulations finalized two years ago call for a \$20,000 to \$25,000 fine per day for each well. The deadline for compliance was originally Feb. 15. The industry previously got a temporary injunction to push the date back and now Judge Thomas S. Clark has issued a preliminary injunction that will run through trial.

Clark said at a hearing on Monday that punishing members of the oil industry, with no recourse but to dispute the fines at an administrative hearing after the fact, would violate due process. *Western State Petroleum Association et al., v. California Department of Conservation, et al.*, BCV-17-100128 (Kern Super. Ct., filed Jan. 19, 2017).

He added that the industry would be harmed by being forced to pay fines or shut down wells, but the other side

has not shown evidence that drinking water would be harmed by keeping the wells in operation.

"The defense arguments that the public will suffer a greater harm presumes contamination and is highly speculative, whereas the harm that would otherwise accrue to the plaintiffs and the intervenors is substantial and quantifiable," he said.

Rock Zierman, chief executive officer of the CIPA, wrote in an emailed statement that the ruling would protect well operators from being penalized for events beyond their control.

"Fully permitted production won't be arbitrarily shut down since there is no environmental harm," he wrote. "The ruling simply allows for the completion of the state's review process which is taking longer than anticipated."

Catherine Reheis-Boyd, president of WSPA, wrote in an emailed statement that there is no risk of drinking water being contaminated by any of the wells in question.

"The Court concluded there is no evidence of harm from these injection operations, a conclusion that the state's Division of Oil, Gas, and Geothermal Resources (DOGGR) itself has reached," she wrote. "The oil industry is highly regulated in California."

Edward S. Renwick, an attorney at Hanna and Morton LLP who represented an oil producer who intervened

in the case, said the ruling was a major victory for the oil industry and his client, BE Conway Energy Inc.

Renwick said he hoped that the applications for exemptions would be processed quickly and that an actual trial would be avoided in the process.

Hollin Kretzmann, a staff attorney for the Center for Biological Diversity, disagreed with the premise that no harm would result from the injunction.

"Every day, millions of gallons of oil industry waste fluid is being injected into aquifers that are supposed to be protected," he said.

The CBD isn't a party to this case, but Kretzmann said the organization has a case against the Division of Oil, Gas, and Geothermal Resources, filed in Alameda County and currently headed to appeal. *Center for Biological Diversity v. Calif. Dept. of Conservation*, RG15769302 (Alameda Super. Ct., filed May 7, 2015).

He said the Alameda County case deals with the same regulations and many of the same issues.

"If that case is resolved first, it could completely knock out this Kern County case," Kretzman added.

A spokesman for the California Department of Conservation, the defendant in both cases, declined to comment.

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