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Court Rules in Favor of Public Access to Pollution Information

San Luis Obispo Superior Court Strikes Down Regional Water Board Policy Allowing Agricultural Group to Keep Water Pollution Data Secret

On October 28, 2016, in a victory for local residents and the environment, a San Luis Obispo judge ruled that the Central Coast Regional Water Quality Control Board had improperly allowed an agricultural coalition to keep important water pollution records and data from the public. “There is no justification for such obfuscation,” wrote Superior Court Judge Charles S. Crandall in his 21-page opinion.

Carmen Zamora, a resident of rural Monterey County, and the Environmental Law Foundation (“ELF”) filed a lawsuit in May, 2015 seeking an end to the Central Coast Regional Water Quality Control Board’s policy of allowing growers to keep groundwater data secret. The court ruled Friday that this policy violated both the California Water Code and the California Public Records Act.

Nitrate pollution is the main threat to drinking water for farmworker communities throughout the Central Coast Region. Nitrate pollution comes from irrigated agricultural operations and contaminated water seeps into these communities’ aquifers. Drinking water polluted with nitrate harms people in many ways, and children are particularly vulnerable. Nitrate can cause birth defects, cancer, potentially deadly “blue baby syndrome,” thyroid, spleen, and kidney disease.

Growers in the Central Coast are required to test drinking water wells on their property and notify tenants and the Regional Board if the water is polluted with nitrate. The court ruled that a group of growers, known as the Central Coast Groundwater Coalition, improperly kept records of these notifications secret.

Ms. Zamora, represented by California Rural Legal Assistance, spent two years seeking documents and data and attempting to convince the Regional Board to abandon this policy. “This ruling gives small communities like Ms. Zamora’s access to information about where contaminated water exists and allows them to verify that residents have been notified about their water being contaminated,” said Mike Meuter, attorney for CRLA.

“The court recognized that the Regional Board’s policy violated fundamental principles of democratic governance,” said James Wheaton, legal director for ELF. “The Board delegated its regulatory authority over growers to a group which is entirely controlled by the growers themselves.”

“Today’s decision sends a strong message that public agencies cannot hide behind private parties to shield what would otherwise be considered a public document,” said Cherokee Melton, attorney for the First Amendment Project, which represents both ELF and Ms. Zamora. “To allow that would render the Public Records Act and everything it stands for meaningless.”

This ruling may have ripple effects across the state as regulators in the Central Valley and the Central Coast are currently revamping their agricultural pollution rules.

The ruling is available at: <http://www.envirolaw.org/documents/ZamoraOrder.pdf>

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