

# Mount Shasta Herald

## News

### **Ruling eliminates Nestlé contract**

By Deborra Clayton

March 23, 2005

In a decision handed down Monday, Siskiyou County superior court judge Roger Kosel ruled that the McCloud Community Services District was not in compliance with the California Environmental Quality Act when it signed the spring water sale contract with Nestle Waters NA prior to an environmental review of the proposed project.

In so ruling, Kosel concurred with the argument presented by attorney Donald Mooney, who represented petitioner McCloud Concerned Citizens, that the act of signing the contract was in fact part of the proposed project and subject to CEQA compliance.

Mooney said the effect of the court's ruling in favor of his client will be that the district must "vacate and rescind the execution of the contract."

"We are disappointed with the decision and I feel we have complied with CEQA. We are reviewing our options, including the possibility of appeal," said Pete Kampa, MCSD general manager.

Nestle's natural resource manager, Dave Palais, said Nestle is "going to review the ruling and determine what our next actions will be."

Kosel's ruling states his satisfaction that the approval of the agreement "constitutes an initial and integral part of the 'proposed project.'"

Because the signing of the contract, which is the approval of the agreement, creates what is tantamount to an entitlement for Nestle and "commits the District to a definite course of action," Kosel stated, the district ought to have followed CEQA guidelines allowing for EIRs covering general matters, such as the approval of the agreement, at initial stages of a project.

The ruling indicates this ought to have been done in order to meet the purpose of CEQA, which is to "inform governmental decision-makers and the public about the potential, significant environmental effects of a proposed activity."

The ruling acknowledges the respondents for including CEQA compliance in the agreement and for the environmental review work in progress toward that end.

But Kosel's ruling concludes that the district's divestiture of control over the compliance process in such a long term commitment of "such a vital and environmentally sensitive community resource such as drinking water" ought to have been subject to CEQA compliance "prior to approval of the agreement."

Mooney said he was happy about the decision.

I think what this does is vindicate what my clients have been saying to the district from the beginning. That is, you cannot commit these water sources in this quantity for that length of time, 100 years, without disclosing to the public what the project is and what the environmental impacts are," he said.