

## State may block water sale between city, farmers

By Sam Matthews | Posted: Friday, May 29, 2015 3:30 am

Pumps of the West Side Irrigation District remain idle on Old River northwest of town, waiting for the state to rule on a challenge to a contract between WSID and the city of Tracy that would let the district pump from the river.



### Water allotment

West Side Irrigation District may not be allowed to pump water from the Old River.

Wednesday, Michael George, the state water master representing the State Water Resources Control Board, met with city officials in an effort to determine a resolution — one way or another — to the challenge, but the outcome of his visit is not yet known.

Last year, after the irrigation district had been prohibited from pumping from the river because of drought, the city and WSID worked out a contract giving the irrigation district the right to pump 2,700 acre-feet of water from Old River — the equivalent of the partial amount of treated wastewater the city discharges into the same river upstream. The district includes 4,500 acres of land surrounding Tracy.

For the rights, WSID paid the city \$30 an acre-foot, about \$81,000 in all, securing a source of water after the state had completely curtailed its normal pumping out of the river.

A column in the Press two weeks ago incorrectly listed the city-WSID contract price at \$300 per acre-foot.

Tracy attorney Steve Nicolaou corrected the figure to \$30 while confirming that it was he who had personally challenged this year's contract, which was approved by the City Council at the same \$30 price for 2,700 acre-feet of pumping rights.

"I became aware of this after talking to several downstream Old River water users. They are concerned that West Side's pumping from the river in the fourth year of drought could cause problems with water quality and availability for them," he said.

Nicolaou said that information prompted him to file, on his own behalf, the challenge to this year's city-WSID contract with the State Water Board. He said he based the challenge on his belief that state water law does not authorize such transfers of pumping rights from one agency (the city) to another (WSID).

Another basis for the challenge, he said, was the question of the State Water Board's authority to approve or reject the contract. Last year, the contract was not referred to the water board as it should have been, he said.

Nicolaou's challenge has prompted a chain of correspondence among himself, the city and the State Water Board.

City officials, including City Manager Troy Brown and City Attorney Dan Sodergren, have initially indicated that the city was acting correctly and in good faith within the provision of state water law in completing the contract with WSID.

Kathy Mrowka, who heads the enforcement division of the State Water Board in Sacramento, said Wednesday afternoon that she was aware that George was meeting with Tracy officials that day, but she had not yet received a report from him.

She said that because of the many water-conservation issues and programs before the state water board and agency, she could not predict when the challenge would be decided.

Meanwhile, large blocks of farmland in the West Side Irrigation District lie fallow for lack of water, according to WSID General Manager Dave Kaiser.

He said the State Water Board has informed the district for the second year that it is being completely barred from normal pumping from the river, because district water rights were granted after 1914, the cutoff date for senior water rights.

Kaiser said that since the state cutoff, WSID can only distribute water collected in district drainage ditches and the intake canal from Old River. The only relief some growers have consists of water pumped from their individual wells.

“Farmers in our district are facing serious problems because of the shortage of irrigation water,” he said. “The land lying fallow is stark evidence of that.”