

Weed citizens, Water group dismissed from Roseburg lawsuit

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By Steve Gerace

Nine residents of Weed and the community organization “Water for Citizens of Weed California” were dismissed from a Roseburg Forest Products lawsuit in Siskiyou County Superior Court Thursday in Yreka.

Siskiyou County Judge Karen Dixon ruled in favor of their Special Motion to Strike, which was filed in response to a “quiet title” suit Roseburg filed in May against the individuals, WCWC, and the City of Weed.

Roseburg was requesting that the court settle a dispute over who owns a water right that had been used for several decades to provide 2.0 cubic feet per second of water to Weed from Beaugan Springs.

“We’re all thrilled to death,” Weed resident Jim Taylor said of the ruling, which found that the individual defendants and the group were sued for “petitioning activity,” which is a First Amendment right, according to James Wheaton, who represented the defendants.

Taylor is president of the WCWC group that formed to fight for the City of Weed’s right to the Beaugan Springs water. He was named in the lawsuit along with Jim Gubetta, Bob Hall, Bruce Shoemaker, Dave Pearce, Mary Jackson, Michael Yates, Monica Zinda, Ray Strack, and the WCWC.

WCWC sent a letter to the local watermaster district asking the District to amend its records to reflect that Weed, not Roseburg, owns a right to 2.0 cubic feet per second of water from Beaugan Springs.

The group also asked the City of Weed in May to join their request to the Watermaster District, and Weed City Council voted 5-0 to do so.

Roseburg filed its lawsuit the next day. A quiet title action is usually used to settle legal disputes about ownership of real property.

Roseburg included the individuals in this case because of “their repeated challenges to Roseburg’s ownership,” according to a comment from Roseburg Senior Vice President and General Counsel Stuart Gray.

The Weed citizens filed their Special Motion to Strike under California’s anti-SLAPP (Strategic Litigation Against Public Participation) law, which allows the people sued to show that they were using their rights of free speech.

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The group claimed that they were not proper parties to a case between Roseburg and Weed over the water rights. They also claimed that writing to the District and going to the City Council were protected by the state and federal Constitutions.

Judge Dixon did not rule on who owns the water right, which could be decided as the case continues against the City of Weed only.

The Weed citizens and WCWC were represented by James Wheaton and First Amendment Project, a nonprofit law firm, and Paul Clifford, both located in Oakland.

Wheaton states in a press release issued after Thursday's court decision that "Roseburg acted like a bully in suing these citizens, and they hired some thugs with law licenses to scare them off. It didn't work and now it's backfired because the case against Roseburg is stronger than ever, both in the street and in the court. We're calling it the 'Roseburg effect.'" Asked for its perspective on Thursday's court decisions, Roseburg provided the following comment from Stuart Gray: "We are generally pleased with the court's rulings last Thursday, which took clear action to exclude irrelevant, alleged historic material that lacked foundation and was a distraction from the clear property records that show Roseburg Forest Products is the rightful owner of the Beaughan Spring water rights. Although we are disappointed with the court's incomplete analysis to dismiss the individual defendants from the quiet title action, which included the individuals due to their repeated challenges to Roseburg's ownership, we will assess any further actions, including the possibility of appeal."

In the papers they filed as part of the case, the Weed citizens presented a letter that they believe shows that Roseburg does not own the water. They say the historical record shows that the water right from Beaughan Springs that feeds Weed's water supply was given to the City of Weed in August of 1982 by the International Paper Company, several months before IP sold its holdings in Siskiyou County to Roseburg.

Judge Dixon said she did not take that 1982 IP letter into evidence for this part of the lawsuit, but she did not rule it inadmissible, according to Wheaton.

Former Weed Mayor Jim Gubetta is quoted in the press release from the defendants saying, "Roseburg thought they could bully us into being quiet. Instead we stood up and fought back. And the little guy won. We achieved one step in the ladder of receiving water for Weed folks."

Wheaton said that because the decision involved anti-SLAPP, Roseburg will pay filing fees and attorney fees to the defendants. He said the judge would only get involved in that part of the case if the parties can't decide on the price.

The City of Weed and the company are currently operating under a 10 year lease allowing the city up to 1.5 cfs from Beaughan Springs at a cost of \$97,500 per year, with a stipulation that the city must find a new water source.

Prior to the establishment of that lease – which sparked a separate lawsuit – the city paid \$1 per year for 2 cfs.

Taylor said the WCWC "is a long way from disbanding," and he "firmly believes we will get the water

rights back.”



The Weed citizens whose Special Motion To Strike was granted in court Thursday in Yreka and their attorneys were a happy

group when this photo was taken afterwards. SUBMITTED