

CALIFORNIA COURT OF APPEAL, FIFTH APPELLATE DISTRICT

State Water Resources Control Bd. v. Super. Ct.

State Water Resources Control Bd. · No. F088909 · Decided October 29, 2025

SUMMARY

The California Court of Appeal, Fifth Appellate District, reviews the State Water Resources Control Board’s petition for writ of mandate challenging the denial of its demurrer to several causes of action brought by Kings County Farm Bureau and others. The dispute concerns the Sustainable Groundwater Management Act, the probationary designation of the Tulare Lake groundwater subbasin, alleged underground regulations, extraction fees, and declaratory relief. The court concludes that the trial court erred in overruling the demurrer and directs it to vacate that order and enter a new order granting the demurrer.

CASE DETAILS

COURT	California Court of Appeal, Fifth Appellate District
WRITING FOR THE COURT	Hill, P. J.; Detjen, J.; Fain, J.
JURISDICTION	California Court of Appeal, Fifth Appellate District
DECIDED	October 29, 2025
DOCKET	F088909
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding on the State Water Resources Control Board's petition for writ of mandate challenging the superior court's order overruling its demurrer to three complaint causes of action. The Court of Appeal previously issued an order to show cause and stayed further proceedings.
STANDARD OF REVIEW	A demurrer is reviewed de novo. The court accepts properly pleaded factual allegations as true, but does not assume the truth of legal contentions, deductions, or conclusions. Statutory interpretation is also reviewed de novo. Leave to amend is denied when the defect cannot be cured under substantive law.
PRECEDENTIAL VALUE	published
PARTIES	State Water Resources Control Board v. The Superior Court of Kings County

TOPICS

administrative procedure act administrative law judicial review of agency action statutory interpretation
writ of certiorari

PRACTICE AREAS

administrative law environmental law water law civil procedure constitutional tax law remedies

QUESTIONS PRESENTED

1. Whether discretionary writ review was appropriate to challenge the superior court's order overruling the State Board's demurrer.
2. Whether Water Code section 10736, subdivision (d), exempts State Board activities taken under Water Code sections 10735.2 and 10735.8 from the Administrative Procedure Act's requirements concerning underground regulations.
3. Whether the Farm Bureau's challenge to State Board extraction fees as unconstitutional taxes was barred by California Constitution article XIII, section 32's pay-first rule.
4. Whether declaratory relief was available to review the State Board's administrative decision when the Legislature provided review by petition for writ of mandate.

HOLDINGS

1. Writ review was proper because the superior court improperly overruled the demurrer based on legal errors, and the proceedings presented issues of substantial public importance requiring immediate resolution.
2. All activities taken by the State Board under Water Code sections 10735.2 or 10735.8 are exempt from the Administrative Procedure Act under section 10736, subdivision (d)(1), including activities that imply or use procedural regulations, unless the State Board exercises its discretion to adopt such regulations under the APA.
3. The Farm Bureau's seventh cause of action, which attacked State Board extraction fees as unconstitutional taxes, was barred by California Constitution article XIII, section 32 because the challenged fees had not been paid and no exception to the pay-first rule applied.
4. Declaratory relief was unavailable because the Legislature designated a petition for writ of mandate as the method for reviewing State Board decisions and barred judicial review when a timely writ petition was not filed.

KEY QUOTATIONS

“Accordingly, we conclude that all activities taken under either section 10735.2 or 10735.8 are exempt from the APA and that this exemption is not lost even if the State Board utilizes regulations “setting procedures for adopting a determination or plan.”” (19)

“The State Board’s proceedings under sections 10735.2 and 10735.8 are exempt from the APA and that even if procedural regulations are developed, they remain exempt from the APA unless the State Board utilizes its discretion to adopt them under the APA.” (24-25)

“Here, although the structure of the statutory scheme clearly indicates a fee was intended, the Farm Bureau chose to attack that fee as if it were a tax. In doing so, it triggered the protections of article XIII, section 32, as the challenge is now regarded as attacking a potential tax.” (32)

“Under well settled law, then, declaratory relief is unavailable where “as here, the Legislature has designated a remedy by which to review an administrative action.”” (41)

FACTUAL BACKGROUND

The Tulare Lake groundwater subbasin is a high-priority basin governed by California's Sustainable Groundwater Management Act. Local groundwater agencies submitted a groundwater sustainability plan, but the Department of Water Resources determined the plan was inadequate, leading the State Water Resources Control Board to designate the subbasin as probationary in April 2024. The Farm Bureau challenged the designation and related monitoring, reporting, and fee requirements through writ and declaratory relief claims. The State Board then sought dismissal by demurrer of claims concerning alleged underground regulations, the characterization of extraction fees as unconstitutional taxes, and general declaratory relief.

PROCEDURAL HISTORY

Kings County Farm Bureau and other real parties filed a petition for writ of mandate and complaint challenging the State Board's designation of the Tulare Lake groundwater subbasin as probationary under the Sustainable Groundwater Management Act. The superior court sustained the demurrer as to an equal protection claim with leave to amend but overruled it as to claims alleging underground regulations, unconstitutional fees, and declaratory relief. The State Board sought writ review, and the Court of Appeal ordered the superior court to vacate its ruling and sustain the demurrer without leave to amend as to those three causes of action.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Issue a writ of mandate ordering the superior court to vacate its order overruling the demurrer and enter a new order granting the demurrer without leave to amend as to the sixth, seventh, and ninth causes of action. The superior court's ruling on the third cause of action remains unaffected.

CASES CITED

- King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 840-841
- Mojave Pistachios, LLC v. Superior Court (2024) 99 Cal.App.5th 605, 616, 628-632
- Environmental Law Foundation v. State Water Resources Control Bd. (2018) 26 Cal.App.5th 844, 863
- National Asian American Coalition v. Newsom (2019) 33 Cal.App.5th 993, 1002 fn. 7

- Fair Employment & Housing Commission v. Superior Court (2004) 115 Cal.App.4th 629, 633
- Coachella Valley Water Dist. v. Superior Court (2021) 61 Cal.App.5th 755, 765
- Cohen v. Superior Court (2024) 102 Cal.App.5th 706, 715-716
- Regents of University of California v. Superior Court (2013) 220 Cal.App.4th 549, 558
- Tyco Industries, Inc. v. Superior Court (1985) 164 Cal.App.3d 148, 153
- POET, LLC v. State Air Resources Bd. (2013) 218 Cal.App.4th 681, 750
- Malaga County Water Dist. v. Central Valley Regional Water Quality Control Bd. (2020) 58 Cal.App.5th 418, 434
- Naturist Action Committee v. Department of Parks & Recreation (2009) 175 Cal.App.4th 1244, 1250
- In re N.R. (2023) 15 Cal.5th 520, 538-539
- Western/California, Ltd. v. Dry Creek Joint Elementary School Dist. (1996) 50 Cal.App.4th 1461, 1486
- In re Mark K. (1984) 159 Cal.App.3d 94, 106
- Horn v. County of Ventura (1979) 24 Cal.3d 605, 612
- Western Oil & Gas Assn. v. Air Resources Board (1984) 37 Cal.3d 502, 509
- Pacific Gas & Electric Co. v. State Bd. of Equalization (1980) 27 Cal.3d 277, 282
- Agnew v. State Bd. of Equalization (1999) 21 Cal.4th 310, 314 fn. 1
- Hovannisian v. City of Fresno (2024) 107 Cal.App.5th 833, 839-843
- Flying Dutchman Park, Inc. v. City and County of San Francisco (2001) 93 Cal.App.4th 1129, 1135
- California Farm Bureau Federation v. State Water Resources Control Bd. (2011) 51 Cal.4th 421, 435, 437-438
- People v. Nash (2020) 52 Cal.App.5th 1041, 1078
- Water Replenishment Dist. of Southern California v. City of Cerritos (2013) 220 Cal.App.4th 1450, 1464, 1469-1470
- Howard Jarvis Taxpayers Assn. v. City of La Habra (2001) 25 Cal.4th 809, 818-825
- California Dept. of Tax & Fee Administration v. Superior Court (2020) 48 Cal.App.5th 922, 931-937
- McClain v. Sav-On Drugs (2019) 6 Cal.5th 951, 960
- Andal v. City of Stockton (2006) 137 Cal.App.4th 86, 90-93
- Galbiso v. Orosi Public Utility Dist. (2010) 182 Cal.App.4th 652, 674
- State of California v. Superior Court (1974) 12 Cal.3d 237, 249
- County of Los Angeles v. State Water Resources Control Bd. (2006) 143 Cal.App.4th 985, 1002
- Phelps v. State Water Resources Control Bd. (2007) 157 Cal.App.4th 89, 105