

Appellate court rules against Whittier oil drilling project

By Steve Scauzillo , San Gabriel Valley Tribune

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Whittier oil and gas drilling site in the Whittier Hills show a large hole or well cellar with steel rebar sticking up. An orange excavator is parked near the site of the Whittier oil drilling site located in the Whittier Hills. The judge cancelled the project and ordered all equipment removed. Photo was shot Sunday, June 9, 2013. (Courtesy photo)

LOS ANGELES >> The city of Whittier's controversial plan to drill for oil and gas in a nature preserve purchased with county taxpayer funds was rebuffed by an appellate court, as it ruled Wednesday the project's lease is illegal.

The 2nd District Court of Appeal in Los Angeles upheld a lower court decision, saying in a tentative ruling that Whittier's lease with Matrix Oil Corp. and Clayton Williams Energy, Inc. to pull out oil and gas for 10 years from beneath the Whittier Hills violated terms of an agreement with Los Angeles County.

The three-justice panel said the city erred when it signed a lease for oil and gas exploration in a 7-acre portion of a 1,260-acre preserve it had purchased using \$9.3 million from a 1992 parks and open space ballot measure, Proposition A. The city failed to secure approval from the Los Angeles County Regional Park and Open Space District, which was formed to oversee land acquisitions and parks improvements funded by the property-assessment measure.

Presiding Justice Frances Rothschild, along with associate justices Victoria Gerrard Chaney and Jeffrey W. Johnson, ruled the city's oil and gas lease could not be allowed to move ahead, unless the county gave approval. The requirement for county approval does not finish when Prop. A reaches the end of its funding mechanism on June 30, leaving what city and oil lawyers argued was a "permanent injunction" against the project.

While Whittier and its oil and gas partners were waiting for time to run out on the [injunction](#) that stopped work at the site in June 2013 to re-start drilling, the appellate court said the breach of contract remains in play forever.

"We are saying the lease breached the provision that prior approval of the lease be obtained by the (county) District," explained Rothschild.

Sean Riley, an attorney hired by the county to argue the case, said the county's approval will be required on the current project even after June 30 if the tentative ruling stands.

Whittier Special Counsel Jim Markman argued against the ruling, pleading with the justices to see the error of their ways. "I disagree with the conclusion (of the court) to extend this injunction forever," he said.

But Rothschild said the county was the injured party because the city violated the agreement, therefore the county still has the upper hand. Markman said he couldn't understand why the county would disagree with the project, saying its managers seemed to indicate a favorable response from 2008 until 2012, when it turned against the city.

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“They don’t want the project to continue. They feel it is not in the best interest of conservation,” Rothschild answered, in an attempt to sum up the county’s position.

She suggested Whittier and Matrix pursue a new lease for oil and gas exploration, as the appellate court did not preclude future leases. But that door may be open only a crack.

“Any new lease would engender quite a bit of additional litigation,” predicted Matrix Oil attorney Jordan Porter in oral arguments.

Whittier City Councilman Bob Henderson, considered the architect of the oil and gas lease, sat through the hearing and often conferred with the attorneys. He called the continuation of the injunction “ridiculous” and could not say how he would advise his fellow council members about the project. At stake are about \$1.5 billion in city revenues over 10 years.

“She might reconsider,” he said of Rothschild.

The court did not rule on whether Whittier violated Prop. A, which has a provision saying lands must be preserved “in perpetuity.”

However, Scott Kuhn, deputy county counsel, said after the hearing that any future oil and gas leases on the site would have to be approved by the county’s open space district. “That is according to Prop. A,” he said.

Riley said that the ruling “is tentative” and that he would not comment further. The appellate court’s final order is expected in a few weeks, and the city could appeal to the California Supreme Court.



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