

Local news

Kern grower Fred Starrh gets another bumper crop of disappointment in court

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A Kern County jury dealt a local grower another setback Wednesday in his fight against oil giant Aera Energy for polluting the groundwater under his farm.

Westside farmer Fred Starrh, who has sought millions from Bakersfield-based Aera for more than a decade, was for the third time denied a shot at punitive damages when a Superior Court jury found Aera hadn't acted with malice or oppression while contaminating the adjacent aquifer through its oil-production work in the South Belridge area.

Starrh and attorney Ralph Wegis have to again take the case to a state appellate court in the hopes that evidence putting Aera on the hook for perhaps hundreds of millions in punitive damages will be allowed in a new trial and compel Aera to stop its polluting activity once and for all.

Legally speaking, punitive damages are distinct from compensatory and other awards, and require their own standard of proof in court.

Starrh says the polluted



HENRY A. BARRIOS / THE CALIFORNIAN

Shafter farmer Fred Starrh, right, gives his attorney, Ralph Wegis, a hug after closing arguments and jury instructions last Friday in Starrh's civil lawsuit filed against Bakersfield oil producer Aera Energy LLC. Starrh says Aera contaminated his groundwater.

groundwater renders him unable to capitalize on high prices for crops such as almonds and pistachios, and the state's chronic shortage of affordable surface water compounds the problem.

He took Wednesday's verdict

hard.

"I was totally devastated, that's all," Starrh said. "I couldn't accept it from a personal perspective."

Susan Hersberger, Aera public affairs director, issued a state-

ment via email: "We are, of course, very pleased that the jury agreed with Aera that our actions did not warrant an award of punitive damages.

"Aera very much appreciates the hard work of those who participated in the process, with particular gratitude to members of the jury.

"Aera has an excellent reputation in the community. We take seriously and value our role as a good corporate citizen both in terms of how we conduct our business as well as the active involvement of our people in the community, which we strongly encourage."

Though Aera maintains the native groundwater was always unusable for irrigation, how—and by whom—it became industrially tainted is not in question.

A jury in 2004 ordered Aera to pay Starrh about \$7 million for financial benefits the company derived from its activity, but arguments for punitive damages were not allowed. A state appeals court found that judicial errors had been committed, warranting a new trial.

The retrial in 2009 determined Aera, in its quest for profits, continually and wilfully allowed pol-

luted water to migrate to Starrh's property. That jury ordered Aera to fork over some \$9 million in damages. But again, the argument for punitive damages was not allowed.

Those trials were presided over by Superior Court Judge Michael Bush.

After another appellate reversal, a third trial, which ended Wednesday, yielded another let-down for Starrh.

Superior Court Judge J. Eric Bradshaw allowed the jury to weigh punitive-damages arguments, but the panel found no basis for them.

Wegis said another appeal to the state court is in the works. If Wednesday's verdict is upheld, the earlier \$9 million award would stand. But, Wegis said, a reversal would mean the punitive-damages question will persist.

And the trespass question would also remain alive for juries to ponder.

The bottom line, Wegis said, is that if Aera continues, so will the lawsuits.

"We're not going to give up as long as Ralph Wegis keeps doing the yeoman's job he's been doing," Starrh said. "We're totally supportive of him."

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