

BAY AREA & BUSINESS

Justices reject tree-removal dispute

By Bob Egelko

The state Supreme Court has rejected a challenge by environmental advocates in Lafayette to an agreement by local park officials that allowed Pacific Gas and Electric Co. to remove trees near an underground gas pipeline, one of several legal disputes over parkland trees in or near the East Bay community.

The East Bay Regional Park District agreed in March 2017 to let PG&E uproot 245 trees that were within 14 feet of the pipeline in Briones Regional Park and on the Lafayette-Moraga Regional Trail, in exchange for payments of \$1,000 per tree, an additional \$10,000 for safety maintenance, and PG&E's promise to plant 31 replacement trees within city borders. The utility says it has removed all but 17 of the trees, which are the subject of a separate suit by Lafayette before a federal judge who is overseeing PG&E's bankruptcy.

The fate of about 200 more trees is still unsettled, however, and the Lafayette City Council and PG&E are discussing how many need to be removed to protect the pipeline. The environmental group Save Lafayette Trees won a 2019



Michael Short / The Chronicle 2014

The East Bay Regional Park District made a deal with PG&E in March 2017 to remove 245 trees that were near a gas pipeline at Briones Regional Park and the Lafayette-Moraga Regional Trail, despite opposition.

ruling from a state appeals court allowing it to challenge the removal of those trees.

But the state's high court refused Wednesday to take up the environmental group's appeal of a lower-court ruling dismissing its suit over the 2017 tree-downing agreement. That ruling, now final and binding on trial courts statewide, said California law authorizes

a regional park district to manage its park lands, even if its decisions conflict with environmental laws of a city or county within the district's territory.

Save Lafayette Trees contended the park district's March 2017 agreement with PG&E violated Lafayette's Tree Protection Ordinance, which requires city approval to remove certain types of

trees. But the First District Court of Appeal in San Francisco ruled in June that state law gives the district "broad authority to manage its own property."

The law "does not grant the City of Lafayette the authority to control the land owned by the regional park district by prohibiting tree removal on district-owned lands absent a permit," Justice

Ioana Petrou said in the 3-0 ruling, which upheld a Contra Costa County judge's decision. While the city can control the use of its own land, she said, its ordinance does not apply to land owned and managed by the park district, which was free to reach a tree-removal agreement with PG&E.

The environmental group also argued that the park district and the

utility had violated the state's environmental laws by reaching the agreement without preparing an environmental impact report, which would have required public input and an examination of other ways to protect the pipeline without removing the trees. But Petrou said the claim was made too late — the legal deadline was 90 days after the March 2017 agreement, and the suit missed that deadline by 11 days.

The park district's general manager, Sabrina Landreth, said the ruling confirms the district's authority "to manage its parklands and park resources, such as trees." The district "is committed to managing its parklands to protect recreational values and natural habitats while reducing the risk of wildfires," she said in a statement.

Stephan Volker, a lawyer for Save Lafayette Trees, said the group was disappointed by the state Supreme Court's order but pleased that its efforts in the earlier lawsuit have helped to preserve additional trees in Lafayette.

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