

American River suit settled

Decision may end 17-year water war

By Julie Appleby
Staff writer

HAYWARD -- Both East Bay residents and chinook salmon won Wednesday in a landmark ruling allowing high-quality drinking water to be pumped out of the American River — a decision culminating 17 years of legal maneuvering.

The ruling was hailed by the East Bay Municipal Utility District as a victory. But Superior Judge Richard Hodge also pleased environmentalists by saying that not a drop of water can be taken unless there's enough left for the fish.

Sitting in front of a stuffed salmon — one of 5,000 exhibits presented during the nine-week trial — Hodge said, "I'm not going to be the judge that will be remembered as the judge who exterminated chinook salmon on the American River. I want something else on my tombstone."

His decision, which faces final approval in August, would allow EBMUD to take up to 150,000 acre-feet of water from the river north of Sacramento each year — exactly the amount they had been awarded in a 1970 federal contract.

"I'm particularly pleased because our right to take the water was confirmed," said EBMUD attorney Bob Maddow. "We won on that count."

Despite this apparent victory, EBMUD opponents also praised the ruling.

"The future for the river looks much brighter," said John Krautkraemer, an attorney for the Environmental Defense Fund,

River

Continued from page 1
down it in the spring and summer.

Environmental groups wanted EBMUD to take its supply from below the point where the American joins the larger Sacramento River, but EBMUD protested, saying Sacramento River water has too many pollutants in it.

If the decision is finalized by Hodge — and no one decides to appeal — EBMUD could begin building a \$70 million pipeline from the river to its aqueducts in the Delta.

The water would then be pumped into the district's reservoirs, including the proposed Buckhorn Reservoir above Oakland.

Other caveats imposed by Hodge are that EBMUD cannot sell the water to third parties — and that the district's contract to take water could be cut off if too many other water agencies begin taking water from the river — although his ruling, once finalized, could prevent any other diversions from the American.

"The evidence is overwhelming that the cumulative impact of EBMUD's diversion, along with those demands projected over the next few decades, would cause irreparable damage to the American River," according to Hodge's tentative decision.

Currently, the Sacramento Municipal Utility District uses water from the river, but it is also being eyed by San Joaquin Valley irrigation districts and the city of Sacramento.

Hodge has given both sides until mid-August to go over his tentative decision. If all agree, it will be made final and the court battle would end.

It is likely, however, that EBMUD will seek to lift the restrictions on selling water and may also challenge the amount of water the judge wants left in the river to protect fish. But if EBMUD tries to lower Hodge's proposed river flows, environmental groups say they will fight.