



News Release

Fairfax Water Office of Public Affairs
8570 Executive Park Avenue
Fairfax, VA 22031
Contact: Jeanne Bailey
703-289-6291, TTY 711

Nov. 15, 10

Supreme Court Denies Falls Church Appeal

Today, the Supreme Court of Virginia denied the City of Falls Church's last effort to seek an appeal in what has been termed by many 'the water war.' For decades, the city of Falls Church has been diverting millions of dollars in annual profits from its water fund for city spending unrelated to operating the water system. Because Fairfax County residents comprise 92 percent of the city's water customers, they have paid the lion's share of that subsidy. Judge Ney, of the Fairfax County Circuit Court, concluded in his 10-page opinion on Jan. 6, 2010, that this amounted to an unconstitutional, "extraterritorial" tax on Fairfax County ratepayers, and he ordered the city to stop. On Sept. 2, 2010, the Supreme Court of Virginia issued an order upholding that ruling, finding that Judge Ney did not commit any "reversible" error. Falls Church sought reconsideration of that ruling and today's denial was the final step in the legal process.

"It has been a long road, but this decision makes clear that taxation without representation will not be tolerated in Virginia," said Philip W. Allin, Chairman of the Board of Fairfax Water. "We will continue to concentrate on what we do best, delivering a superior quality drinking water at the lowest rates to our customers in Northern Virginia."

The injunction entered against Falls Church on January 6, 2010, now takes effect. Falls Church is required to set its water rates so that receipts are equal to expense, and it may no longer transfer water profits to its general fund. And in accordance with a Jan. 27, 2010 Consent Decree, the city now has 30 days to restore \$2,254,040.61 to the Water Fund, together with six percent interest from October 7, 2009 (the date it transferred monies from the FY2009 water fund into the city's general fund). Allin reiterated today that "We hope that the city will now use the \$2.2 million toward reducing the water rates that it charges to all of its customers, including the 110,000 residents and businesses in Fairfax County." The city is currently undertaking a rate study.

The Court's ruling today was the last unresolved part of the legal controversy that began in February 2007, when Falls Church sued in federal court in an effort to block Fairfax Water from offering competing water service to customers in the eastern portion of Fairfax County. By a consent order dated February 25, 2010, the parties resolved that dispute. Falls Church agreed, among other things, to stop claiming an exclusive service area and no longer to block developers or customers from choosing Fairfax Water's service over the City's. Falls Church also paid Fairfax Water \$750,000.

Fairfax Water provides top quality drinking water to nearly 1.7 million Virginians from state-of-the-art treatment plants on the Potomac River and Occoquan Reservoir. Its commodity rate is the lowest in the Washington Metropolitan Area, and Fairfax Water is one of only a few government water utilities nationwide with “triple-A” bond ratings from all three major rating services.

Copies of the court rulings and other papers in the case are available on Fairfax Water’s Web site: www.fairfaxwater.org/current/falls_church_lit.htm, or by calling 703-289-6291, TTY 711.

#

For more information, visit www.fairfaxwater.org