Water Rights Litigation

When litigation is the best course, our water litigators combine decades of experience representing our clients before State and Federal courts and administrative boards to achieve success.

Beyond their litigation skills, our attorneys understand water – they are equally comfortable exploring a computer model depicting a groundwater basin's cones of depression and deposing a biologist on critical species habitat. Our litigators know the financial and political costs and risks of litigation, as well, and can realistically counsel clients about strategic alternatives when litigation may not make sense.

Water litigation nearly always entails more than purely water rights. It also requires in-depth expertise in areas as diverse and intricate as the Endangered Species Act, the National Environmental Policy Act, the California Environmental Quality Act, the Administrative Procedures Act, and any number of other areas, such as Proposition 218 assessments. Our litigators have extensive experience in these areas, often at both the trial and appellate levels.

Selected Experience

- *Delaware Tetra Technologies, Inc. v. County of San Bernardino; Center for Biological Diversity v. County of San Bernardino*. Downey Brand attorneys serve as lead counsel for the County in defense of six coordinated actions challenging the Cadiz Groundwater Conservation, Recovery and Storage Project under CEQA and the county's Desert Groundwater Management Ordinance.
- *San Francisco Baykeeper v. California State Lands Commission.* Our water litigators represent leaseholders in an action challenging the EIR for sand mining operations in San Francisco Bay, Suisun Bay, and the western Delta. This action alleges claims under CEQA and the common law public trust doctrine.
- *Pacific Coast Federation of Fishermen's Associations (PCFFA) v. Gutierrez, et al.* Downey Brand served as trial counsel to the Tehama-Colusa Canal Authority in a successful defense against Endangered Species Act challenges to TCCA's Central Valley Project water diversions.
- *Natural Resources Defense Council (NRDC) v. Salazar.* The firm served as trial counsel and currently serves as appellate counsel to a major group of Sacramento River Water Rights Settlement Contractors against Endangered Species Act challenges to the Contractors' CVP renewal contracts and their historic water rights.
- *City of Chowchilla v. California Department of Corrections and Rehabilitation*. Downey Brand's water attorneys successfully defended the Department against a CEQA challenge to its prison conversion plan.
- *Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.* Downey Brand served as litigation counsel for a water conservation district in a basin adjudication involving claims of prescriptive rights and basin management and water storage issues arising out of importation of State Water Project water.
- *City of Santee v. County of San Diego.* The firm served as counsel to the California Department of

Corrections and Rehabilitation in the first case to successfully defend preliminary planning efforts against a CEQA challenge in the wake of the California Supreme Court's decision in Save Tara v. City of West Hollywood.

- *P.G.& E. v. SMUD.* The firm served as lead CEQA litigation counsel for the Sacramento Municipal Utility District, successfully defending PG&E's challenge to SMUD's Yolo County annexation.
- *Orradre Ranch v. Monterey County Water Resources Agency*. Downey Brand served as litigation counsel for the county water agency in defense of claims relating to basin and facilities management issues and related Prop. 218 assessment issues.
- *San Benito County Water District v. Del Piero*. The firm represented a developer in this action brought by a county water district to enjoin pumping and export of water from groundwater basin alleged to be in overdraft. The case was argued before Second District Court of Appeal.
- *In re Adjudication of Waters of Putah Creek Stream System.* Downey Brand represented a group of 35 agricultural landowners in this action to adjudicate rights to a stream system and hydraulically connected groundwater basin.
- *Big Bear Municipal Water District v. North Fork Water Company, et al.* The firm represented a municipal water district in this action to modify a stipulated judgment adjudicating water rights in the upper Santa Ana River watershed and associated groundwater basin.
- *Malacha Power Project, Inc. v. P.G.& E.* Downey Brand served as litigation counsel for a private hydroelectric developer in an action against P.G.& E. involving "Standard Offer 4" power purchase agreement rights and related water rights disputes.