



David R. E. Aladjem Retired

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Practice Areas

CEQA / NEPA | Endangered Species | Flood Protection Law |
Groundwater Law | Public Trust Doctrine | Recycled Water | Regulatory
Law & Business Permitting | Sustainable Groundwater Management Act
(SGMA) | Water Law

David Aladjem helps clients throughout California manage and resolve water resources management problems, especially those at the intersection of water rights, endangered species, and CEQA/NEPA.

He represents water districts, cities, counties, and private companies in obtaining, developing, and protecting their water rights. He regularly represents clients in connection with water transfers and the conjunctive use of surface water and groundwater.

As both general counsel and special counsel, he provides clients with unparalleled experience and insight in dealing with the intricate regulatory landscape, and in negotiating with other water rights holders, state and federal agencies, and environmental groups. He practices regularly before the State Water Resources Control Board, the California Department of Water Resources, and other state and federal agencies with control over water resources and endangered species. Most recently, David represented a large number of clients in the State Water Resources Control Board's hearing on the California WaterFix project and in connection with the so-called "voluntary agreements" to update the Bay-Delta Water Quality Control Plan. He has also recently represented the Imperial Irrigation District before the State Water Resources Control Board in connection with the ongoing need to protect the Salton Sea. Lastly, he is currently advising a client before the State Water Resources Control Board in connection with the assignment of a "state-filing" upstream of the Delta.

Clients turn to David for his "out of the box" approach to solving problems. He masters the technical details of an issue and is then able to craft tailored legal and political strategies to provide cost-effective solutions for his clients. Recently, David was one of the lawyers who spent untold hours crafting ACWA's proposal for new groundwater legislation. He also worked diligently during the legislative process to improve the bill on behalf of his clients. He is one of a small handful of lawyers in California who can identify the origins of most of the bill's legislative provisions.

David believes that practicing law is about listening, not only to what is said but what is not said. Recently, in the midst of heated negotiations, the other party used a word that David didn't expect – "fear." The two of them talked about that fear and the way that it had infected the negotiations. After discussing specifics, they decided to re-write the critical provision of the agreement thereby resolving the dispute and putting all parties at ease. He

believes that by listening carefully – to his clients and to those on the other side of a dispute – complex problems can be resolved and new opportunities can present themselves. Finding those solutions and helping clients find those opportunities – particularly in the context of long-standing relationships – is what he enjoys about practicing law.

Experience

- Representing a large group of Northern California water users (water districts, mutual water companies, private individuals and utilities) in proceedings before the State Water Resources Control Board relating to water quality and water right issues for the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary, as well as in connection with the Delta Stewardship Council's development and adoption of the Delta Plan.
- Recently defended the Monterey County Water Resources Agency in resolving a proposed revocation of a major water right, as well as on the implementation of the settlement agreement in that matter.
- Currently representing a joint powers agency that is pursuing an area of origin water right filing in the American River Basin.
- Currently representing San Bernardino Valley Municipal Water District in litigation challenging the designation of critical habitat for the Santa Ana sucker.
- Currently representing San Bernardino Valley Municipal Water District in water rights litigation for the Rialto-Colton groundwater basin in Southern California.
- Represented two water districts in San Bernardino and Riverside Counties as they successfully obtained water rights totaling almost 200,000 acre-feet/year (or enough water for a city of more than 100,000 people).
- Successfully represented the California Department of Corrections and Rehabilitation in *City of Santee v. County of San Diego* (2010) 186 Cal.App.4th 55, which was the first case approving "pre-development" agreements under the Save Tara doctrine.
- Represented the California Department of Corrections and Rehabilitation in the simultaneous preparation of three EIRs for new prison facilities, none of which were challenged.
- Represented the Association of California Water Agencies and the California Association of Sanitation Agencies in connection with California's Recycled Water Policy, negotiating a settlement with environmental groups.
- Represented the Association of California Water Agencies and the Santa Ana Watershed Project Authority in connection with the water use efficiency legislation that became part of the 2009 comprehensive water package.

Professional & Community Service

- American Bar Association, Section of Environment, Energy and Resources. Past Chair, Water Resources Committee. Past Chair, Annual Water Law Conference
- Association of California Water Agencies (ACWA), Groundwater Committee

- National Judicial College, Dividing the Waters, Board of Advisors
- California State University, Office of the Chancellor, Water Resources Policy Initiatives
- Northern California Water Association
- Central Valley Clean Water Association
- California Lawyers Association, Environmental Law and Public Law Sections

Education

- J.D., University of California at Berkeley School of Law, 1989
- M.A., Princeton University, 1985
- A.B., Stanford University, 1981

Honors & Rankings

- AV Preeminent® Rating by Martindale-Hubbell®
- Best Lawyers in America®, Water Law, 2021-2024
- *Sacramento Magazine*, Top Lawyer, Environmental, Energy & Natural Resources, State, Local & Municipal, 2015-2020
- *Sacramento Business Journal*, Best of the Bar, 2015, 2017-2018
- American Bar Association, Best Paper, *There is No Free Lunch: The Endangered Species Act, The Public-Trust Doctrine and the Takings Clause*, April 2018
- Association of California Water Agencies, Excellence in Water Leadership, 2009
- Sacramento Area Council of Governments, Citizen of the Year, 2005
- Phi Beta Kappa Honor Society, 1980

Speaking Engagements / Events

- *The Intersection of SGMA and the New Streamlined Adjudication Procedures: The Las Posas Basin Case Study*, Presenter, Argent's 34th Annual California Water Law & Policy Conference, June 21, 2019
- *The ESA and Property Takings: One Fish, Two Fish, Is it Compensable?*, Panelist, ABA 36th Annual Water Law Conference, April 17, 2018
- *Can't We Just Put the Water in the Ground?*, Panelist, ACWA Legislative Symposium, March 14, 2018
- *Sustainable Groundwater Management Act Update*, Panelist, Urban Water Institute's Spring Water Conference, February 8-10, 2017
- *Legal and Institutional Management Framework*, Presenter, Water Education Foundation Water 101 Workshop, February 2-3, 2017

- *Delta Issues: California WaterFix Aquatic Science*, Presenter, Law Seminars International Hydrology and the Law Seminar, September 15, 2016
- *Hydrology and the Law*, Law Seminars International, September 15, 2016
- *One Year Later: Implementing the Sustainable Groundwater Management Act*, Panelist, Water Education Foundation 33rd Annual Executive Briefing, March 17, 2016
- *Drought and State Intervention; Managing Groundwater in a New Era*, Panelist, The Bar Association of San Francisco Environmental Law Section, July 14, 2015
- *The Salton Sea and QSA Developments*, Moderator, Argent Communications 30th Annual California Water Law & Policy Conference, June 16, 2015
- *California Considers Regulation of Groundwater*, Panelist, CLE International's 22nd Annual Water Law Conference, November 3, 2014
- *Water Supply Reliability: Where We've Been & Where We're Headed*, Presenter, ACWA Region 5 Fall Conference, October 20, 2014
- *The Role of Science in the Resolution of Legal Issues for Water Quality and Damages Issues*, Panelist, Law Seminars International: Hydrology and the Law, October 7, 2014
- *Water Basins in Crisis: The Role of the Federal Government in Basin-Wide Water Management*, Presenter, American Bar Association's 32nd Annual Water Law Conference, June 5, 2014
- *Water Plans in Colorado and Elsewhere*, Panelist, University of Denver Water Law Review Symposium: The California Water Plan, April 18, 2014
- *Water Law 101*, Presenter, California League of Food Processors, March 2014
- *How Growers Can Survive the Drought*, Presenter, California Association of Winegrape Growers Webinar, February 2014
- *The Nexus of Groundwater and Land Use Planning*, Panelist, Stanford University: Water in the West Uncommon Dialogue Panel, September 2013
- *Constitutional Limits on Government Regulation of Water Rights: When is the Reallocation of Water a Taking?*, Presenter, ACWA Spring Conference, May 2013
- *Constitutional Limits on Government Regulation of Water Rights*, Presenter, Municipal Law Institute of the League of California Cities and the California Constitution Center, UC Berkeley School of Law, March 2013
- *Salt and Nutrient Management Plans: The Santa Ana Experience*, Presenter, Groundwater Resources Association of California, February 2013
- *The SWRCB's General Order for Aquifer Storage & Recovery: A Missed Opportunity*, Presenter, CLE International Conference, October 2012
- *Analysis of Recent Public Policy Institute of California Report*, Argent Communications 26th Annual California Water Law & Policy Conference, June 13, 2011
- *Water Transfers: Myths and Facts*, Presenter, Congressional Research Service, February 2011

Publications

- *There is No Free Lunch: The Endangered Species Act, The Public Trust Doctrine and The Takings Clause*, Best Paper Award, ABA 36th Annual Water Law Conference, April 2018
- *California Groundwater Management: Laboratories of Local Implementation or State Command and Control?*, Environmental Law News, Vol. 25, No. 2, Fall 2016
- *DWR Releases Draft Emergency Regulations for Groundwater Sustainability Plans*, In the View, CLFP Electronic Newsletter, March 4, 2016
- *Marketing the Sustainable Groundwater Management Act: Applying Economics to Solve California's Groundwater Problems*, ABA Natural Resources & Environment, Vol. 30, No. 2, Fall 2015
- *Preparing for California's New Water Management Model*, The Crush, California Association Of Winegrape Growers Newsletter, May 2015
- *When All You Have is a Hammer: Scientific Uncertainty and Bay-Delta Policy, 1995 to Present*, ABA Natural Resources & Environment, Vol. 27, No. 4, April 15, 2013
- *The Public Trust Doctrine: New Frontiers for Sustainable Water Resources Management*, ABA Natural Resources & Environment, Vol. 25, No. 1, Summer 2010
- *Recycling the Process: Collaborative Interest-Based Negotiations in an Era of Climate Change*, 22 Pac. McGeorge Global Business & Development L.J 285, January 2010
- *The Looming Conflict Between Low Impact Development and the Water Rights System*, ABA Trends, Vol. 41, Issue 3, January 2010
- *Alice in Groundwater Land: Court Defines State Board 'Subterranean Stream' Jurisdiction*, California Water Law & Policy Reporter, October 1, 2006
- *Innovation Within a Regulatory Framework: The Protection of Instream Beneficial Uses of Water in California, 1978 to 2004*, 36 McGeorge L. Rev. 305, 2005
- *Proposal for Revisions to California's Central Valley Flood Control System*, Discussion Paper, December 2004
- *Reclamation Determines Beneficial Use of Water by California's Imperial Irrigation District*, The Water Resources Committee Newsletter, August 2003
- *California's Other "Dual System": Coordinated Management of Groundwater and Surface Water*, 49th Annual Rocky Mountain Mineral Law Institute, July 1, 2003
- *Downey Brand's 75 Years of Water Law Practice: A History of Forging the Future*, Sacramento Lawyer, January/February 2003
- *Groundwater Management in California: The Sax Report and Beyond*, California Water Law & Policy Reporter, July 2002
- *Is Water Ripe for the Taking? The SWRCB's Lower Yuba River Decision and the Public Trust Doctrine*, California Water Law & Policy Reporter, July 2001
- *Property Rights Triumphant: Barstow v. Mojave Water Agency*, California Water Law & Policy Reporter, October 2000

- *CalFed Issues Revised Phase II Report*, California Water Law & Policy Reporter, February 1999
- *From D-1485 to Delta Smelt: A Description of the Controversy Surrounding the Bay-Delta Estuary*, Co-author, California Environmental Law & Regulation Reporter, September 1994
- *Public Use and Treatment as an Equal: An Essay on Poletown Neighborhood Council v. City of Detroit and Hawaii Housing Auth. v. Midkiff*, 15 Ecology L. Q. 671, 1988

Legal Alerts

- *State Water Resources Control Board Issues Draft Toxicity Policy – What You Need to Know*, November 21, 2018
- *AB 2257: New Brown Act Requirements for Meeting Agendas on Local Agency Websites Effective for Meetings Held on and after January 1, 2019*, September 13, 2018
- *California Supreme Court Confirms Certain Groundwater Pumping Charges are Outside Scope of Prop 218*, December 4, 2017
- *Appellate Court Holds That Constitution Overrides Statutory Exemption Related to Proposition 218 Assessments; Reclamation Districts Are Permitted to Assess School Districts*, April 7, 2017
- *California Supreme Court Rules Public Officials' and Employees' Personal Accounts Do Not Escape Reach of Public Records Act*, March 3, 2017
- *Update: California Supreme Court Holds Inadvertent Production of Attorney-Client Privileged Documents under a Public Records Act Request Does Not Waive the Privilege*, March 18, 2016
- *DWR Releases Draft Emergency Regulations for Groundwater Sustainability Plans*, February 23, 2016
- *Governor Signs Sustainable Groundwater Management Act Part II: Groundwater Adjudications Meet Groundwater Management*, October 13, 2015
- *Showdown at California Supreme Court over Waiver of Attorney-Client Privilege in Public Records after Inadvertent Disclosure*, August 18, 2015
- *Appeals Court Decides Crucial Case On State Fish And Wildlife's Extension Of Streambed Alteration Limits To Existing Water Diversions*, June 6, 2015
- *Court of Appeals Gives Guidance on How to Implement Tiered Pricing*, April 21, 2015
- *No End In Sight for California's Drought– Governor Imposes Statewide Water Restrictions*, April 2, 2015
- *The New Groundwater Legislation: Opportunities and Challenges*, September 2, 2014
- *Sacramento Trial Court Extends the Public Trust Doctrine to Limit Groundwater Extraction*, July 21, 2014
- *Immediate Curtailment of Post-1914 Appropriative Water Rights*, May 29, 2014
- *Governor Brown Signs Emergency Drought Legislation Into Law*, March 2014
- *Trial Court Rejects the Fish and Wildlife Department's Novel Expansion of Streambed Alteration Regulations to Existing Water Rights*, January 2013
- *No Tax Relief for the Annexed: Court of Appeal Holds Proposition 218 Does Not Apply to Annexations*,

October 2012

- *First District Court of Appeal Defers to Water Agency's Discretion and Upholds Urban Water Management Plan, Rejecting Claim That Any "Uncertainty" About Future Water Supplies Requires Analysis of Alternative Supplies*, October 2010
- *Court of Appeal Holds That CEQA Is Not Triggered By a Public Agency's Investigation of Sites for a Potential Project*, July 2010
- *California Supreme Court Confirms that the California Constitution Does Not Require Secret Ballots in Proposition 218 Ballot Proceedings*, June 2010
- *First District Court of Appeal Clarifies Calculation of Special Benefits and Proportionality for Assessments Subject to Proposition 218*, January 2010
- *Second District Court of Appeal Upholds EIR for Transfer of 41,000 Acre-Feet Per Year of State Project Water Despite Uncertain Status of the Monterey Agreement*, December 2009
- *U.S. Supreme Court Rules That EPA Cannot Issue "NPDES" For Discharges Requiring a Section 404 Dredge and Fill Permit From the Corps of Engineers*, June 2009
- *First Appellate District: The California Constitution Compels Local Governments to Keep Ballots Confidential in Fee Elections and to Inform the Public of That Fact*, March 2009
- *Rohnert Park Decision: Water Suppliers Given "Substantial Discretion" To Analyze Groundwater Sufficiency for New Developments*, November 2008
- *In a Landmark Case Interpreting Proposition 218, the California Supreme Court Expands the Judiciary's Role in Reviewing the Adequacy of Local Benefit Assessments*, July 2008
- *EPA Excludes Water Transfers From Clean Water Act Permit Requirements*, June 2008
- *California Supreme Court Upholds CALFED Environmental Impact Report*, June 2008
- *Court of Appeal Finds Water Supply Assessments Not Actionable Until Completion of Environmental Review Process*, April 16, 2008
- *Applying Principles from the California Supreme Court's 2007 Decision in Vineyard Area Citizens, Court of Appeals Upholds EIR Against Challenge to Water Supply Analysis*, September 2007