

→ Water

We advise clients on the full range of issues affecting critical water resources, including water rights, water quality regulation, the formation and oversight of water providers and financing of capital improvement projects for water infrastructure. Our clients include land developers, farmers, industrial facilities, investors, private water companies, public utilities, water districts and municipalities.

Water Rights

California water rights reflect a uniquely complex legal system, with state law recognizing an uncommon blend of appropriative and riparian surface water rights. The state's history of groundwater adjudications and the involvement of the federal Bureau of Reclamation add further dimensions. Our attorneys handle nearly every type of water rights issue in the state, including:

- Surface water rights, including appropriative rights, riparian rights and prescriptive rights
- Groundwater rights, including overlying rights and appropriative rights in safe yield and overdraft conditions
- Entitlements to water delivered through the Central Valley Project and State Water Project
- Adjudications of surface and groundwater rights
- Water transfers and water wheeling agreements
- Application of the beneficial use and public trust doctrines
- Water project finance

Water Quality

We represent our clients in permitting, compliance and enforcement proceedings related to water quality before state and federal authorities, including:

- Obtaining and defending permits for point-source discharges under the National Pollutant Discharge Elimination System and California Porter-Cologne Water Quality Control Act, including for wastewater treatment facilities
- Securing state water quality certification under Section 401 of the federal Clean Water Act
- Counseling clients on compliance with stormwater management requirements under the Industrial General Stormwater NPDES Permit, the Construction General Stormwater NPDES Permit and site-specific permits
- Permits for injection wells issued through the U.S. EPA's Underground Injection Control program
- Defense against citizen suits alleging violation of the federal Clean Water Act and other laws
- Commenting on revisions to Water Quality Management Plans, proposed general NPDES permits and other regulatory actions
- Responding to cleanup and abatement orders issued by the California Regional Water Quality Control Boards
- Litigation of groundwater contamination cases under CERCLA and other environmental laws

- Remediation of contaminated waters

Water Provider Regulation

We have decades of experience representing water companies, water agencies, water wholesalers, public and private utilities, mutual water companies and municipal service providers in every aspect of their businesses. Our attorneys are particularly known for their work before the California Public Utilities Commission (CPUC). Our work includes:

- Representing water utilities in Writ of Review proceedings before the California Supreme Court
- Representing water companies and other utilities in rate-setting and other proceedings before the CPUC
- Preparing, filing and defending applications for Certificates of Public Convenience and Necessity for water providers with the CPUC
- Advising on the formation and operation of mutual water companies and other non-public entities

Water Project Public Finance

In addition, our attorneys have experience handling complex public finance and public-private partnership ventures to assist water agencies and districts, special districts, water wholesalers and other interested parties in the acquisition and development of real estate assets and the financing of large capital projects. This work includes:

- Transactional advice on financings and P3 agreements for capital improvement projects
- Representing water agencies in connection with desalination projects
- Providing strategic advice and creative finance solutions for major infrastructure projects
- Serving as securities and disclosure counsel on public finance matters
- Tax exempt financing of water infrastructure
- Water-related public private partnerships
- Municipal securities disclosure obligations and post issuance compliance
- Advising the boards of public agencies in connection with their fiduciary obligations

Experience

Representative work on water rights issues includes:

- Representing clients in water rights disputes involving appropriative, riparian and adjudicated rights
- Processing water rights applications and appeals before the State Water Resources Control Board
- Purchasing, selling and transferring water rights, including drafting water rights opinion letters and marketing of entitlements to water supplied through federal Bureau of Reclamation projects
- Drafting well sharing agreements, easements and similar instruments to provide for the sharing of groundwater across property boundaries and ownerships
- Advising water agencies and districts on compliance with the Sustainable Groundwater Management Act

- Obtaining city, county or district water permits
- Resolving private disputes with water companies and water agencies
- Performing due diligence on water rights for purchases of real property
- Performing water supply assessments and other environmental review under the California Environmental Quality Act