

WATER

Rutan & Tucker LLP has been serving the comprehensive legal needs of water and wastewater agencies, cities and special districts since A.W. Rutan opened his law office to serve the legal needs of farmers and water companies in Southern California during the late 1920s. Since then, Rutan has been instrumental in the creation and operation of numerous water districts and other local agencies throughout Southern California, including OCWD the World's most famous indirect potable reuse (IPR) and groundwater management agency, which A.W. Rutan helped create in 1933 (with his drafting of the OCWD Act), and where Rutan currently serves as General Counsel some 89 years later. Rutan takes pride in these long-term productive relationships it has developed with its public agency clients—helping them grow, and transition, with changing times, but with a keen understanding of history and past lessons learned.

Rutan's water and wastewater agency practice is a component of the firm's larger Government and Regulatory Law Department, which is one of the largest and most respected practices of its kind in the State of California, with some 40 attorneys providing city attorney and general/special counsel services to dozens of special districts, cities, transit agencies, school districts and other governmental entities throughout the state. Rutan currently serves as contract City Attorney or General Counsel for the following public agencies from its Costa Mesa, Palo Alto and San Francisco offices: City of Cerritos, City of Claremont, City of Dana Point, City of Duarte, City of Irvine, City of Laguna Beach, City of Laguna Woods, City of La Palma, City of La Quinta, City of Menifee, City of Poway, City of Twentynine Palms, City of Villa Park, City of Yorba Linda, Orange County Water District, Serrano Water District, Sewer Authority Mid-Coastside, Yuima Municipal Water District, and the Pauma Valley Groundwater Sustainability Agency. We also serve as special counsel for water and wastewater agencies throughout agencies throughout California on both transactional and litigation matters. Our clients for special counsel representations in the water/wastewater space include the City of San Diego, Casitas Municipal Water District, Elsinore Valley Municipal Water District, Mesa Water District, Olivenhain Municipal Water District, San Bernardino Valley Water Conservation District; South Orange County Wastewater Authority, Santa Clara Valley Water District, and Temescal Valley Water District as well as private water bottlers, water foundations, mutual water companies, and private water right owners and developers throughout California.

Please contact Jeremy Jungreis at jjungreis@rutan.com if you would like more information about Rutan's Water Practice.

We also regularly advise our clients on various water issues, including but not limited to issues relating to statutory and common law water rights, the Sustainable Groundwater Management Act (SGMA), the Federal Clean Water Act, the Safe Drinking Water Act, California's Porter Cologne Act, and hazardous materials regulation (e.g., Proposition 65, CERCLA, RCRA, and the state laws administered by the California Environmental Protection Agency). On behalf of our governmental agency and private clients, we closely follow statewide water transfer, storage, and allocation issues, as well as pending state and federal legislation that affects local, regional, and state water issues. Many of us at Rutan have also drafted state and federal legislation, and worked with local legislators and public agency officials to obtain their enactment.

In addition, Rutan is at the forefront of advising our public-agency clients on the response to the current drought and the emergency regulations that have been enacted throughout the State. Similarly, we are at the forefront of evolving groundwater and recycled water law. We represent numerous water agencies throughout California on

compliance with SGMA, and have assisted several of these agencies to develop and implement groundwater sustainability plans (“GSP”) or DWR approved “Alternative Plans.” We also are the primary advisors to OCWD and Santa Clara Valley Water District on their respective IPR Projects and expansion of such projects, and we are considered statewide leaders in groundwater law and the development of new water supplies through conjunctive use, IPR and stormwater capture. We also represent our public and private agency clients in groundwater and surface water adjudications throughout California.

As an integral part of our general counsel representation of water districts and cities with water departments, we regularly advise our clients with respect to their rights and duties as public water purveyors. In addition to the laws applicable to all local governmental agencies, our water agency general counsel practice includes advising clients on issues that specifically affect water agencies, including rate setting (under both Proposition 218 and 26); connection and capital facility fees; supply discrimination and extra-territorial service issues; service area annexations and detachments of territory; relationships with wholesalers and other utilities; groundwater management, including compliance with SGMA; public works construction issues, including design-build and other forms of public-private partnerships; and easements, joint use agreements and “prior rights” issues. We also represent public agencies on a wide variety of interagency issues, including the sale and storage of water, water transfers and “wheeling,” and joint powers authorities and similar contractual relationships for shared and regional facility construction and use.

Rutan represents both public and private clients on the full spectrum of water rights issues, including overlying, appropriative, riparian and contractual water rights. We have assisted governmental and private clients in water appropriation proceedings before the State Water Resources Control Board, the purchase and sale of adjudicated groundwater rights, and establishing known-regulated water rights. Attorneys of the firm have negotiated with regional wholesale water agencies regarding water supply, storage and transmission issues, and have participated in a wide variety of judicial and administrative adversarial proceedings relating to water rights.

The firm also has broad experience representing both governmental agencies and private clients with respect to compliance with, and litigation involving, CEQA and NEPA issues, as well as the Endangered Species Act (most recently with regard to challenge of proposed California regulation of the Steelhead Trout), and related state and federal legislation that affect water supply and facility projects. Finally, our attorneys are well-recognized in the field of water quality and have experience in all facets of regulatory litigation proceedings before Regional Water Quality Control Boards and in NPDES matters.

Notable Cases / Opinions

- *Ventura River Adjudication, Santa Barbara Channelkeeper v. State Water Resources Control Board, et al.*, Case No. 19STCP01176 (2021 to Present) (lead litigation counsel for Casitas Municipal Water District in basin-wide adjudication of Ventura River Watershed).
- *Carlsbad Alkaline Water LLC, et al. v. Davidson*, Case No. 37-2020-00038604 CU-BC-NC (2020 to Present) (lead litigation counsel in dispute between water bottling company and adjacent property owner regarding access to and ownership of groundwater wells).
- *Irvine Ranch Water District v. Orange County Water District, et. al*, LA Superior Court Case No. BS175192 (ongoing litigation over water rights/regulatory authority within Orange County Groundwater Basin)
- *South Orange County Wastewater Authority et. al v. Moulton Niguel Water District*, Case No. RIC 1721240 (2019) (litigation over contracts to repair/rehabilitate aging wastewater facilities resulting in complete victory in trial court and full payment by defendant of 2.7 million dollars in attorneys’ fees).
- *Kinney v. Three Arch Bay Community Service District*, Case No. 8:17-cv-01693-RGK-JC (2018 C. D. CA) (successful defense of Clean Water Act citizen suit case obtaining dismissal of case with prejudice).
- *Rancho Pauma Mutual Water Company v. Yuima Municipal Water District*, (2015) 239 Cal. App. 4th 109 (lead litigator in groundwater dispute within San Luis Rey Groundwater Basin).

- *U.S. v. Eastern Municipal Water District*, Case No. CV 04-8182 CBM (RNBx 2008)(successful supervision of pre-trial portion of case as deputized U.S. Special Attorney for Department of the Navy).
- *City of Dana Point v. Beach Cities Collective* (2014; Docket No. G047839).
- *City of Dana Point v. California Coastal Com.* (2013) 217 Cal. App. 4th 170.
- *Traudt v. City of Dana Point*, (Calif. Court of Appeal, 4th Dist. Div. 3) 199 Cal. App. 4th 886; Sept. 30, 2011 (Review granted).
- *Dana Point Safe Harbor Collective v. Superior Court* (Supreme Court of California) 51 Cal. 4th 1; December 9, 2010.
- *City of Dana Point v. Beach Cities Collective* (2014 Docket No. G047839).
- *City of Dana Point v. California Coastal Com.* (2013) 217 Cal. App. 4th 170.
- *Ainbac Assur. Corpv. Adelanto Public Utility Authority* (U.S.D.C. Southern District of New York 09 CIV 5087), 2011 U.S. Dist. LEXIS 131680, November 14, 2011.
- *Traudt v. City of Dana Point* (Calif. Court of Appeal 4th Dist. Div. 3) 199 Cal. App. 4th 886; Sept. 30, 2011 (Review granted).
- *Dana Point Safe Harbor Collective v. Superior Court* (Supreme Court of California) 51 Cal. 4th 1; December 9 2010.
- *Weitzman v. City of Dana Point* (Calif. Court of Appeal, 4th Dist. Div. 3) G036199 2006 Cal. App. Unpub. LEXIS 11677, December 28, 2006.
- *Hamilton v. City Council of Dana Point* (Calif. Court of Appeal, 4th Dist. Div. 3) G034788, 2005 Cal. App. Unpub. LEXIS 10130, November 7, 2005.