

Alfred E. Smith II

Partner | Los Angeles

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Alfred Smith, Chair of Nossaman's Water Group, is a recognized expert in water, environmental, transportation and public agency law. A graduate of the Harvard Law School, he has successfully litigated multiple water right adjudications, and he has secured more than \$750 million worth of contamination settlements in favor of his clients.

He is a trusted advisor on matters involving water rights, the Sustainable Groundwater Management Act (SGMA), Colorado River and Pueblo rights, recycled water, water resource development, contamination remediation, groundwater adjudications, water transfers, desalination, conjunctive use, climate change and environmental regulatory compliance. Alfred has also developed Urban Water Management Plans, water supply assessments and environmental impact reports for a wide range of residential and commercial developments.

An experienced General Counsel to multiple government agencies, Alfred is an expert on all aspects of public agency governance and operations, including the Brown Act, Public Records Act, ethics and political law compliance, CEQA, public contracting, construction claims and disputes and related litigation.

Alfred has successfully litigated at all levels. His accomplishments include helping negotiate one of California's largest water contamination mitigation settlements in favor of his clients and winning a unanimous decision from the U.S. Supreme Court.

He is an appointed member of the Association of California Water Agencies' (ACWA) Legal Affairs Committee. He was listed as one of Los Angeles's Top 100 Lawyers by the *Los Angeles Business Journal* and has been selected to the Rising Stars and Super Lawyers lists every year since 2008. In 2016, the *Los Angeles Business Journal* named Alfred one of the Most Influential Minority Lawyers in the Los Angeles region, and Alfred was included in the 2022 edition of *The Best Lawyers in America*® for Water Law.

EXPERIENCE

Main San Gabriel Basin Watermaster. General Counsel to the Watermaster on all aspects of operation and management of the vast San Gabriel Groundwater Basin. Successfully negotiated a landmark \$650 million water quality settlement with eight companies responsible for contaminating the Basin's water supplies. Worked with the U.S. Army Corps of Engineers in developing remediation plans and treatment facilities for the treatment of contaminated soil and groundwater. Also advised client in connection with water rights, water resource development, climate change and greenhouse gas emissions issues.

Rainbow Municipal Water District. General Counsel to this municipal water district on all aspects of its operations involving the delivery of water and sewer services to an 80 square mile area in Northeast San Diego County. Representation includes advice on water rights, supply, transfers and exchanges, water quality management and compliance, Urban Water Management Plans, litigation, Propositions 218 and 26, real estate, labor and employment, joint powers agreements, the formation and operation of community facilities districts, and proceedings before LAFCO.

Castaic Lake Water Agency, Newhall County Water District, Valencia Water Company, and Santa Clarita Water Company. Represented four water agencies in a federal action to force a cleanup of perchlorate contamination in the Santa Clarita Valley. Obtained summary judgment against defendants establishing their liability for cleanup costs in a decision reported at 272 F.Supp.2d 1053 (2003). The settlement agreement provided the agencies with an estimated \$100 million for cleanup. Worked with the U.S. Army Corps of Engineers in developing water quality remediation plans and treatment facilities for the treatment of contaminated soil and groundwater.

Association of California Water Agencies ("ACWA"). Represented ACWA, the National Association of Water Companies, the California Water Association, the California State Association of Counties and several other parties before the United States Supreme Court in *U.S. v. Atlantic Research*, a CERCLA cost recovery action. Obtained a unanimous decision from the Supreme Court in favor of these clients.

Rincon Del Diablo Municipal Water District. General Counsel to this special district providing water, sewer, recycled water and fire protection services to the cities of Escondido, San Marcos, San Diego and various unincorporated areas of San Diego County. Representation includes advising on the Brown Act, parliamentary procedures for running meetings, public official conflict requirements, joint powers agreements, LAFCO, public finance, labor law and legislative updates on laws affecting the District.

Olivenhain Municipal Water District. General Counsel to this municipal water district on all aspects of its operations including the provision of water, wastewater services, recycled water, hydroelectricity, and operation of the Elfin Forest recreational reserve. Successfully represented client regarding dispute with regional water supplier regarding potential water transfers. Participated in regulatory proceedings and development of legal strategy. Engaged in mediation with other parties resulting in a \$13.5 million settlement for client.

Metro Gold Line Foothill Extension Construction Authority. General Counsel to this public agency on all aspects of the \$1.6 billion project that will extend light rail service from Pasadena to Montclair. Representation includes advising on such issues as the Brown Act, Public Records Act, ethics and political law compliance, CEQA, public contracting, construction claims and disputes, employment, eminent domain, environmental issues and litigation.

Fox Canyon Groundwater Management Agency. Represented this local government agency in the development and implementation of Groundwater Sustainability Plans under the Sustainable Groundwater Management Act in multiple groundwater basins throughout Ventura County. Represented this client in the first Comprehensive Adjudication filed under SGMA.

Freeport Seawater Desalination Project. Advising client on the water and environmental issues for this desalination project with an estimated capital cost of \$255,000,000. The project will generate 33,600 acre-feet per year of reliable, high-quality water.

San Diego Association of Governments ("SANDAG"). Special counsel to SANDAG on public agency and open government law issues. Representation includes advice regarding the California Public Records Act, the Ralph M. Brown Act, the Political Reform Act, campaign and election law, ethics, gifts and honoraria to public officials, parliamentary procedures for public meetings, records disclosure, third-party subpoenas and related litigation.

City of San Diego. Water and environmental law counsel to the City. Representation involves water rights, including Colorado River water rights, Pueblo water rights, and SGMA. Advising the City on water quality matters including stormwater compliance under NPDES permits, including the statewide industrial general permit and municipal separate storm sewer system permits. Advising on water quality matters involving the Clean Water Act, CERCLA environmental contamination litigation and mediation, Integrated Regional Water Management Planning and California water quality standards, CEQA and NEPA review related to water and energy projects, and regulatory proceedings involving the Regional Water Quality Control Board and the State Water Resources Control Board. Litigation and negotiations involving public-private partnerships related to water, sewer, stormwater and energy resource development.

City of Los Angeles. Water and environmental law counsel to the City. Representation includes advice on water rights, including pueblo rights, adjudicated groundwater rights, import return flows, and SGMA. Advising the City on CEQA, NEPA, Clean Water Act, Safe Drinking Water Act, the Endangered Species Act, CERCLA, contamination remediation, water transfers, recycled water, conjunctive use, and environmental regulatory compliance.

City of Ontario. Representing the City with respect to water rights, recycled water and contamination issues in the Chino Basin. Represented the City in the development of the Chino Basin desalination facilities which treat and produce 14 million gallons of water per day. Also advising the City on the Phase 3 expansion of the desalter facilities, an estimated \$130 million project that will provide 10.5 million gallons of water per day for 1.5 million people.

Upper Los Angeles River Area (ULARA) Watermaster. Special counsel to the Watermaster on the full range of water issues relating to the ULARA, which provides approximately 15 percent of the City of Los Angeles' total water supply needs. Successfully represented the Watermaster in litigation concerning chromium VI contamination in the San Fernando Valley and in preventing the waste of water valued at over \$10 million. Prepared a comprehensive legal opinion confirming the City of Los Angeles' Pueblo water rights dating back to the Treaty of Guadalupe Hidalgo. The legal opinion was used to defeat a secession attempt by the San Fernando Valley.

Apple Valley Ranchos Water Company. Served on the appellate team that successfully litigated water rights in the Mojave River System before the California Supreme Court. Confirmed client's water rights valued at over \$50 million. Advised client in the preparation of its Urban Water Management Plan, Integrated Regional Water Management Plans, and SB 610 water supply assessments for major commercial developments. Also advising on rights to reclaimed water discharged to the Mojave River in a matter before the State Water Resources Control Board. Representation includes advising on Safe Drinking Water Act standards, land and water resource development, and handling water rights transfers.

City of Santa Monica. Served as water rights counsel to the City in groundwater litigation involving MTBE contamination in the Charnock Basin. Matter settled favorably for the client.

California Water Association. Assisted with the preparation of a template joint powers agreement for use in streamlining the formation of Groundwater Sustainability Agencies under the Sustainable Groundwater Management Act, including legal research regarding governance issues.

Cities of Pismo Beach, Grover Beach, Arroyo Grande and the Oceano Community Services District. Successfully represented these public water suppliers in the water rights adjudication of the Santa Maria Valley Groundwater Basin. Defeated landowners' claims that their water rights were superior to clients' rights, and prevailed on clients' cross-claims by obtaining declaratory relief and a physical solution to manage the groundwater basin in the future. The litigation involved more than 1,000 parties.

Standard Pacific Homes. Assisted client with land use entitlements, environmental due diligence and SB 221 water supply assessments for large residential developments.

Southern California Edison. Advised client on its water rights associated with the successful sale of its 26 hydroelectric plants throughout California. Reviewed documentation from as early as 1887, including contracts, notices of appropriation and judgments relating to water rights associated with each project. Successfully represented client in a multi-party water rights litigation involving several creeks, lakes, and hydroelectric facilities in Mono County.

INSIGHTS

SPEAKING ENGAGEMENTS

Speaker, "Groundwater Adjudications and Litigation Alternatives in the Era of the Sustainable Groundwater Management Act (SGMA)," Nossaman's 2018 Water Webinar Series, 06.07.2018

Speaker, "Where Do We Go From Here? Sustainable Groundwater Management Act (SGMA) Implementation Update," Nossaman Webinar, 08.15.2017

Speaker, "Implementation of the Sustainable Groundwater Management Act (SGMA)," Nossaman Drought Solutions Webinar Series, 09.20.2016

Speaker, "The Sustainable Groundwater Management Act (SGMA)," CLE International's California Water Law Conference, San Francisco, CA, 10.08.2015

"2014 Crocker Symposium on Real Estate Law and Business," 11.06.2014

Speaker, "Chromium 6 Standard: Too Low, Too High or Just Right?," CLE International's California Water Law Conference, San Diego, CA, 06.12.2014

Presenter, "Groundwater Contamination Litigation: Proving and Defending Against Liability - Demonstrating Nexus, Causation and Injury to Recover Cleanup Costs and Other Damages," 10.10.2013

Speaker, "Perchlorate Update: Allegations of Contamination from Colorado River Water in the South El Monte Operable Unit (San Gabriel Groundwater Basin) Litigation," CLE International's California Water Law Conference, Los Angeles, CA, 01.24.2013

Speaker, "The Clean Water Act: EPA's Water Transfer Rule and Recent Congressional Developments," Association of California Water Agencies, San Diego, CA, 12.03.2009

Speaker, "External Utility Stewardship: Conjunctive Use," California Water Association's 68th Annual Conference, Monterey, CA, 11.10.2009

Speaker, "Current Urban Water Use Issues," California Water Association Spring Conference, Sacramento, CA, 06.05.2008

Speaker, "Water Supply: Turning Case Law into a CEQA Analysis," Association of Environmental Professionals, 05.12.2008

Speaker, "Is There Trouble in the Delta?," 6th Annual California Water Law Conference, Pasadena, CA, 11.02.2007

Speaker, "Litigation and Emerging Contaminants," American Water Resources Association Summer Conference on Emerging Contaminants of Concern in the Environment, Vail, CO, 06.26.2007

Speaker, "Urban Water Management Plans - What Can Go Wrong? Some Case Studies," Urban Water Institute's Urban Water Management Plan Update for 2005, Riverside, CA, 01.24.2005

PUBLICATIONS

Co-Author, "Everything Local Public Agencies Need to Know About California's New Rules on Virtual Meetings During the Pandemic," *Nossaman eAlert*, 09.17.2021

Author, "Coronavirus Updates for the Water Sector," *Nossaman eAlert*, 03.13.2020

Featured, "WaterRules – California's Sustainable Groundwater Management Act provides a Comprehensive Set of Tools for Local Agencies to Implement Groundwater Management Plans," *Los Angeles Lawyer*, 02.20.2015

Author, "Historic California Groundwater Bills are Dry on Specifics," *Law360*, 09.17.2014

Co-Author, "Will Court Ruling Increase Government Superfund Liability?," *WLF Legal Opinion Letter*, 07.08.2011

Author, "The Federal Government's Liability in Cost Recovery Actions," *Daily Journal*, 04.01.2011

Author, "No Crystal Ball for Predicting Water Supplies," *Daily Journal*, 10.27.2010

Co-Author, "Prescriptive Water Rights Confirmed," *The Friday Letter, California Water Association*, 05.23.2008

Author, "Legislation Introduced to Amend Key Provisions of the Clean Water Act," *American Bar Association Environmental Section Newsletter*, 08.01.2005

Author, "Supreme Court Rules that Water Pumps Not Generating Pollutants are Point Sources Under the Clean Water Act," *California Environmental Law Reporter*, 07.01.2004

Author, "Groundwater Management and Conjunctive Use," *Water Education Foundation*, 11.01.1999

HONORS & RECOGNITIONS

Included in *The Best Lawyers in America*® for Water Law, 2022

Named to the Minority Leaders of Influence: Attorneys list by the *Los Angeles Business Journal*, 2021

Recognized on the "Thriving In Their 40s" list by the *Los Angeles Business Journal*, 2020

Selected to the Southern California Super Lawyers list, 2013-2020

Most Influential Minority Lawyers honoree by the *Los Angeles Business Journal*, 2016

Selected to the Southern California Rising Stars list, 2008-2012

Named one of Los Angeles's Top 100 Lawyers by the *Los Angeles Business Journal*, 2009

COMMUNITY & PROFESSIONAL

California Special Districts Association, Appointed Member of the Legal Advisory Committee

Association of California Water Agencies, Appointed Member of the Legal Affairs Committee

American Bar Association, Water Resources Committee

Association of Groundwater Agencies, Pro Bono Special Counsel

Southern California Water Committee Inc., Member

American, California State and Los Angeles County Bar Associations, Environmental Sections

Triedstone Church, Board of Trustees

Water Education Foundation Alumni Association, Member

PRACTICES

Water Law

Groundwater Management & SGMA

Clean Up of Groundwater & Contaminated Media

Litigation

Water Litigation

Construction Law, Claims & Litigation

Infrastructure

Procurement & Contracting

INDUSTRIES

Water

Energy & Utilities

Government & Public Sector

Transportation

EDUCATION

Harvard Law School, J.D., 1996

University of California, Berkeley, B.A., 1993, Phi Beta Kappa

ADMISSIONS

California

U.S. Supreme Court