



Appellate Court Upholds Santa Maria Groundwater Judgment & Physical Solution

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On November 21, 2012, the California Court of Appeal (Sixth District) handed down its lengthy and long-awaited ruling in the Santa Maria groundwater litigation, which commenced in 1997. Although it reverses the Judgment on one technical point, it upholds 99% of the Judgment, including the Settlement among the central coast cities, other public water suppliers, and most of the landowners.

The appellate court upheld the settlement's "physical solution" that allocates and manages groundwater in the basin's 3 management areas among the settling parties, despite the absence of an existing overdraft. The Court reaffirmed the duty of judges to fashion physical solutions that resolve disputes and alleviate or prevent overdrafts, so long as they do not harm the water rights of non-settling parties.

Nossaman represented the Cities of Arroyo Grande and Grover Beach and the Oceano Community Services District. The Court rejected all of appellants' challenges to their water rights, including their superior right to use 7300 acre-feet of ground and surface water per year in their area of the basin, in addition to their rights under their settlement agreements.

The Court upheld the public water suppliers' superior rights to imported and salvaged water, including: the water saved by the Twitchell and Lopez reservoirs, the water imported by the public water suppliers from the State Water Project, and the return flows from such imported and salvaged water. The Court strongly reaffirmed the superior rights of parties to water that they import or salvage, including its return flows, based on the principle that a party should be credited with the "fruits of his endeavors in bringing into the basin water that would otherwise not be there."

The Court also upheld the prescriptive rights established by the City of Santa Maria and the Golden State Water Company against the non-settling landowners, based on the purveyors' pumping during five-year historical periods when the basin was in overdraft, because such pumping is adverse to the water rights of

the landowners. The basin's long-term and well-known water shortage was held sufficient to give the landowners notice of the adverse use.

The appellants – two groups of landowners who objected to the settlement and physical solution – prevailed on only one of more than 100 grounds for their appeal: the appellate court instructed the trial court to modify the judgment to declare that appellants, because they are landowners, have overlying rights in unspecified amounts, even though they failed to prove that they had pumped any groundwater or made beneficial use of groundwater. Because there is no current water shortage, the Court found it unnecessary for the landowners to now quantify their overlying rights.

Thereafter appellants filed a petition for rehearing that was denied by the Court of Appeal, and they recently requested review by the California Supreme Court.

For additional information about this case, feel free to contact Henry Weinstock at 213.612.7839 or hweinstock@Nossaman.com.