



Stephanie Osler Hastings

Shareholder

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Santa Barbara, California

Stephanie Hastings has played a leading role in several of California’s most complex and precedent-setting water matters. With 20 years of specialized expertise in water law, Stephanie brings a wealth of experience to the acquisition, maintenance, protection and management of water resources and water rights. Her practice spans every aspect of California and national water law. She represents the interests of all water users—wholesale and retail water providers, public and private corporations, government enterprises, investment funds and banks, large landowners, land developers and home builders, ski resorts and golf courses, traditional and renewable energy developers, high tech industries, agriculture and vineyards — in both transactional and litigation matters.

Stephanie helps clients acquire, develop, monetize and protect water supply assets and infrastructure. Her practice includes:

- development, maintenance and protection of surface and groundwater rights
- developing long-term sustainable water supply portfolios for water providers
- securing water supplies and water and wastewater utility services for new development
- complex water rights litigation and adjudications
- reorganization of water and wastewater enterprises
- conjunctive management of surface and groundwater supplies
- water transfers and exchanges
- conservation of water supplies
- development of recycled water supplies
- construction and operation of water supply infrastructure
- regulatory compliance and permitting for water supplies, operations and infrastructure
- compliance with the California Environmental Quality Act (CEQA) for water supply and infrastructure projects
- species protection compliance for water supply operations and infrastructure projects

In the surface water context, Stephanie regularly advises clients on surface water regulatory matters, including securing regulatory approvals of changes to water rights, the exercise of senior priority water rights, and defense of enforcement actions.

Stephanie’s extensive groundwater experience includes development of new groundwater supplies in adjudicated and non-adjudicated basins, groundwater management, and complex groundwater litigation and adjudication. On behalf of both public and private clients, Stephanie is actively engaged in implementation of California’s Sustainable Groundwater Management Act of 2014 in numerous groundwater basins throughout the state, including representation of stakeholders in the process to form and elect local “groundwater sustainability agencies,” identification and adjustment of basin boundaries, development of groundwater sustainability plans, and protection of water users’ water rights and reliable access to groundwater supplies.

A longtime leader in the water community, Stephanie is a director of The Aquaya Institute, a nonprofit research and consulting organization dedicated to advancing public health by improving drinking water worldwide. Operating in Africa and other developing countries, Aquaya delivers the knowledge and tools that are required

to deliver universal access to safe drinking water. Stephanie is also the Co-Founder and Co-Chair of the *California H2O Women Conference*.

Practices

Energy & Natural Resources, American Indian Law & Policy, Endangered Species, Land Use, Water, Litigation

Litigation

Stephanie represents the interests of all water users in a variety of water supply, water right and environmental litigation matters, in both administrative and judicial venues, at trial and on appeal. In the surface water context, she has prosecuted numerous matters before the California State Water Resources Control Board and has represented water users in administrative proceedings and state court litigation involving the Kern River in Kern County, the San Juan Valley Basin in Orange County, the San Luis Rey Valley Basin in San Diego County, the Salinas River in San Luis Obispo and Monterey Counties, the Santa Ynez River in Santa Barbara County, and the Colorado River. Stephanie's experience also includes representation of major stakeholders in many of California's adjudicated groundwater basins, including the Beaumont, Central, Goleta, Main San Gabriel, Mojave, Santa Maria, San Fernando, Six and West Coast Basins, as well as numerous unadjudicated basins throughout the state. In federal court, she represented the interests of a lessee of tribal lands overlying the Coachella Valley Groundwater Basin.

Her published appellate decisions include:

- Water Replenishment Dist. v. City of Cerritos (2012) 202 Cal.App.4th 1063 (review denied)
- Hillside Memorial Park and Mortuary v. Golden State Water Co. (2011) 199 Cal.App.4th 658 (review denied)
- City of Barstow v. Mojave Water Agency (2000) 23 Cal.4th 1224
- Metropolitan Water Dist. of Southern California v. Imperial Irr. Dist. (2000) 80 Cal.App.4th 1403

Land & Resort Development

Stephanie regularly helps land developers (home builders and commercial developers such as golf and ski resorts) comply with Senate Bill 610/221 (California's water supply planning statutes), as a component of the developer's compliance with the California Environmental Quality Act. Notable projects include:

- Water and environmental compliance counsel for a national land developer and home builder in support of a 1,000 home, age-restricted, mixed use community, including procurement of water and wastewater services from a regulated utility.
- Water and environmental compliance counsel for a national land developer and home builder with respect to the water supply components of a 5,000 home residential and commercial development.
- Water counsel for a national land developer in support of a project located within the jurisdiction of a water district that imposed a moratorium on all new service connections.
- Water rights counsel for the acquisition and development of two major ski resorts.

Environmental & Endangered Species Compliance

Stephanie advises her clients in a number of related environmental and regulatory contexts as necessary to support water use and water supply businesses and operations. This includes assisting clients in their acquisition of permits and other approvals from state and federal regulatory agencies, together with the associated CEQA and NEPA compliance. She also has specialized expertise in state and federal Endangered Species Act compliance for aquatic species, including:

- watercourse diversions and streambed alterations
- take avoidance
- incidental take authorization

- habitat conservation planning

Representative Matters

- Representation of a joint powers authority with respect to the assignment of a State Water Project contract from the original county contractor to the joint powers authority, including the acquisition of numerous local and state approvals.
- Representation of multiple groundwater stakeholders (agriculture and other private landowners, municipal providers, regulated utilities, water districts, and mutual water companies), in priority groundwater basins located around the state, with respect to implementation of the Sustainable Groundwater Management Act of 2014.
- Special water rights counsel to a municipal water provider with respect to the licensing of surface water rights associated with two major reservoir projects.
- Representation of a large coalition of agricultural associations, representing nearly all agricultural interests in the Salinas Valley of California, with respect to the formation of a “groundwater sustainability agency” pursuant to the Sustainable Groundwater Management Act of 2014 for the Salinas Valley Basin. Continuing representation of the successor entity which has secured seats on the new governing body.
- Representation of several municipal providers, a regulated utility, a water district, and a mutual water company, in priority groundwater basins located around the state, with respect to implementation of the Sustainable Groundwater Management Act of 2014.
- Representation of all water supply and water quality components of a major agricultural entity’s operations.
- Special water rights counsel to two major municipal water providers with respect to the environmental compliance and water right and water quality permitting requirements associated with the development and delivery of recycled water within and outside the boundaries of the recycled water provider.
- Special water rights counsel to a city with respect to possible options for reorganization of the city’s water and wastewater enterprises, which resulted in the city’s election to undertake a municipal service review with the local LAFCO.
- On behalf of a joint powers authority, negotiated, drafted and implemented nearly a dozen drought water transfers and exchange agreements to supplemented imported State Water Project deliveries during historic and extended drought in California. Program optimized use of existing water supply and delivery infrastructure.
- Representation of a landowner in the sale of a spring water supply.
- Water counsel for a national land developer in support of a project located within the jurisdiction of a water district that imposed a moratorium on all new service connections.
- Water rights counsel to a senior water right holder on the Santa Ynez River. Representation includes maintenance and protection of the client’s numerous senior priority and permitted water rights, compliance with CEQA for the construction of an off-river reservoir, negotiations with competing users, and compliance with state and federal regulation of endangered species.
- General Counsel to the Central Coast Water Authority, a joint powers authority comprised of eight member agencies. CCWA is a wholesale water provider delivering State Water Project water to 13 water districts and private companies in Santa Barbara County, and another 11 water purchasers in San Luis Obispo County.
- On behalf of a national homebuilder, obtained approval of the Water Supply Assessment (SB 610) for development of a 1,500 acre-property in Southern California proposed to include 5,400 residential units and commercial uses. The project water supply included the use of imported water, surface water, groundwater, stormwater and recycled water supplies over a 30-year build-out. The project raised numerous water supply and water quality issues, including the production of groundwater from adjudicated and non-adjudicated

basins, groundwater storage, conjunctive use, the delivery and use of imported State Water Project supplies, water re-use, flood protection and stormwater management.

- Water rights counsel for the acquisition and development of two major ski resorts.
- Buyer's water rights and water supply counsel for the acquisition of Napa County vineyard.
- Water rights counsel to a secured lender in bankruptcy proceeding to protect rights and interests in surface and groundwater rights and access to a long-term reliable water supply for the irrigation of a golf course.
- Special water rights counsel to a wholesale water supplier with respect to the maintenance and protection of numerous water rights associated with the operation of ten major reservoirs.
- Water rights counsel to a large mutual water company, including maintenance and protection of its rights in an adjudicated groundwater basin.
- Counsel to one of California's largest wholesale water suppliers with respect to its compliance with the federal and state Endangered Species Acts for water supply and flood control operations in four major watersheds draining to the San Francisco Bay. The project included the development of a 50-year, multispecies habitat conservation plan (HCP) and associated implementation agreement and environmental compliance (CEQA and NEPA) documents; acquisition of incidental take permits from the NMFS, USFWS and the CDFG for approximately 25 covered terrestrial and aquatic species; and implementation of a complex, multi-agency settlement of a water rights complaint alleging violations of the public trust and CDFG Section 5937, including acquisition of the State Water Resources Control Board's approval of the settlement.
- On behalf of San Diego County Water Authority, negotiated a series of complex agreements between state and federal agencies for the settlement of disputes related to the allocation of Colorado River water, including the largest water transfer in United States history, lining of the All-American Canal and water conveyance.
- Successfully obtained the State of California's approval of the largest agriculture to urban water transfer in the history of the United States, from Imperial Irrigation District to San Diego County Water Authority for up to 200,000 acre-feet per year for 75 years. The matter involved the negotiation of a series of complex agreements between state and federal agencies for the settlement of disputes related to California's allocation of Colorado River water.
- Defense of a municipal water provider in response to a water rights complaint filed with the State Water Board by a downstream water provider. The complaint raises numerous water right, water quality and environmental claims. The matter involves unique historical water rights dating back to the establishment of the missions in the mid-1700s.
- Defense of a municipal water provider in complex litigation disputing the classification of a groundwater basin and the jurisdiction of the State Water Board.
- Successfully defended and settled a complex quiet title action involving competing claims to water rights and access to numerous groundwater wells.
- Successfully defended and settled complex and high stakes water rights litigation that threatened to enjoin a municipality's groundwater production and operation of a \$30 million groundwater treatment facility, which in turn would have forced the client to rely entirely on costly and less reliable imported supplies. The settlement implements a physical solution that protects the client's water rights, permits continued operation of its facilities and substantially reduces the threat of future litigation.
- Water litigation counsel in CEQA litigation challenging a city's approval of a national land developer/home builder's large residential and commercial development in southern California.
- Water rights counsel for a resort and golf courses in the Coachella Valley leasing tribal lands in state and federal litigation involving the golf courses' use of groundwater, payment of groundwater replenishments to a local groundwater agency and exercise of Indian reserved water rights.

- On behalf of an association of retail water providers in the West and Central groundwater basins, successfully obtained reversal in full of two separate, but related trial court decisions denying motions to amend judgments governing the West Coast and Central groundwater basins, which provide local water supplies to the millions of people living and working in the greater Los Angeles region. The motions had sought to provide for the conjunctive use and management of the basins, including procedures for use of the basins' available storage space. (*Hillside Memorial Park and Mortuary v. Golden State Water Co.* (2011) 199 Cal.App.4th 658 (review denied); *Water Replenishment Dist. of Southern Cal. v. City of Cerritos* (2012) 202 Cal.App.4th 1063 (review denied).)
- Litigation counsel for an association of groundwater producers' efforts to amend an existing adjudication to promote conjunctive use of the West Coast and Central groundwater basins, improve local self-sufficiency and increase overall water supply reliability for the millions of people living and working in the greater Los Angeles area.
- Successfully defended a landowner's surface water diversions, including negotiation of a settlement with the California Department of Fish and Wildlife and the National Marine Fisheries Service regarding alleging violations of the state and federal Endangered Species Acts.
- Representation of the cities of Burbank and Glendale in the context of a judgement adjudicating the rights of the parties in the Upper Los Angeles River Area, including successful implementation of an agreement to optimize management of the San Fernando Basin.
- Trial counsel for one of California's largest shareholder-owned public water suppliers in complex litigation to adjudicate and control the water resources in the Santa Maria groundwater basin. The case involved more than 1,000 parties who rely on local water resources and two federally-owned reservoirs. After eight years of litigation, the case was resolved through a settlement stipulation among the vast majority of the parties, thereby providing legal certainty with respect to the use and management of the resource.
- Successful negotiation of multi-agency settlement of a water rights complaint alleging violations of the public trust and California Fish and Game Code section 5937, on behalf of one of California's largest wholesale water providers. The settlement provides a perpetual, multimillion-dollar program for the re-operation of numerous dams and associated water supply facilities on three watersheds, including flow enhancements, barrier removals and habitat restoration.
- Amicus curiae on behalf of a regulated utility and groundwater user in *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224.
- Representation of the San Diego County Water Authority in a validation action involving wheeling rates in *Metropolitan Water Dist. of Southern California v. Imperial Irr. Dist.* (2000) 80 Cal.App.4th.

Publications & Presentations

- *Brownstein Water: Current Trends in Water Law & Policy*, Contributor
- *Municipal Water Reuse in an Increasingly Complex Regulatory Environment*, Speaker, City Attorney's Spring Conference, San Diego, CA, May 4, 2018
- *Groundwater Law for the Central Coast*, Speaker, Groundwater Law Forum, San Luis Obispo County Water Resources Advisory Committee, April 4, 2018
- *California Water Rights Compliance Checklist for 2018*, *Brownstein Client Alert*, March 12, 2018
- *Women Water Leaders from Around the State Gather to Discuss California's Pressing Water Supply Issues*, Co-author, *Water Matters*, March 3, 2017
- *California H2O Women Conference*, Co-founder, Co-chair and Presenter, California H2O Women Conference, Santa Barbara, CA, January 27,

2017

- California Water Rights: Compliance Checklist for 2017, *Brownstein Client Alert*, January 6, 2017
- Sustainable Groundwater Management Act of 2014 , Presenter, 50th Select Conference on Industry Litigation (SCIL), California Building Industry Association, San Diego, CA, May 14, 2016
- Opportunities for Private Stakeholders in Implementation of the Sustainable Groundwater Management Act of 2014, Presenter, UC Cooperative Extension, Salinas Valley, CA, February 17, 2016
- Brownstein's Annual California Water Rights Compliance Checklist, *Brownstein Client Alert*, January 26, 2016

California H2O Women Conference

Stephanie is co-founder and co-chair of the *California H2O Women Conference*. The inaugural event, which was hosted in Santa Barbara, California in January, 2017, was the first of its kind to showcase leading women professionals, their work and contributions to advancing the water industry. The first California H2O Women Conference provided a formal opportunity for 100 of the top women in the water industry to collaborate, coordinate, educate and support each other with the goal of empowering women to change the way we manage California's and the world's most important resource. The next *California H2O Women Conference* will be held on November 1 and 2, 2018, at the Bacara Resort and Spa, in Santa Barbara, California.

Education

- J.D., 1996, University of California, Hastings College of Law
- B.A., 1992, University of Vermont
- 1988, St. Paul's School, Concord, New Hampshire

Admissions

- California, 1996
- U.S. District Court, Central District of California
- U.S. Court of Appeals, Ninth Circuit

Recognition

Who's Who in Professional Services, 2018, *Pacific Coast Business Times*

Best Lawyers in America, 2018-2019

Co-Chair, Natural Resources Department, 2009-12

Top Women in Business, *Pacific Coast Business Times*, 2012

Chambers USA, America's Leading Business Lawyers, Environmental Law, 2009-2010

Top 40 Under 40, *Pacific Coast Business Times*, 2009

Water Practice Group Leader, 2005-09

Membership & Community

Director, The Aquaya Institute (2011-present)

Director, California Groundwater Resources Association (2004-2009)

Member, State Water Contractors, Legal Affairs Committee

Member, Groundwater Resources Association

Member, The Association of Women in Water, Energy, Environment

Member, Association of California Water Agencies