



Bradley J. Herrema

Shareholder

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**Los Angeles, California Reno, Nevada Santa Barbara,
California**

Brad Herrema's forte and long-term focus include strategic water supply planning, water right permitting and regulatory compliance, litigation including water right adjudications, transactional negotiations and due diligence, as well as water quality, environmental and species concerns spanning every aspect of California and national water law. For nearly 15 years, Brad has been involved in many of the nation's most significant and complex water matters, predominantly in the western United States. A strategic business partner to his clients, Brad serves as special water counsel to private corporations, water purveyors such as cities and special districts, investor-owned utilities and large landowners, golf courses, resorts and energy and infrastructure projects. Brad has extensive experience in groundwater matters, including development of new groundwater supplies in adjudicated and non-adjudicated basins, groundwater right adjudications, local groundwater management, groundwater storage and complex groundwater litigation. He is actively engaged in implementation of California's Sustainable Groundwater Management Act of 2014, including representation of groundwater sustainability agencies, development of groundwater sustainability plans, and protection of water users' water rights and reliable access to groundwater supplies. Brad serves as counsel to the Chino Basin Watermaster, an arm of the San Bernardino Superior Court, which oversees the implementation of a 1978 groundwater rights adjudication in the Southern California Inland Empire, central to the sustenance of the region's \$2 billion economy. Brad is the leader of the firm's Water practice group and is a regular writer and speaker on water issues. For the last seven years, he has held a statewide leadership role in the field of groundwater resources as director of the Groundwater Resources Association of California.

Practices

Water, Public Agency, Public Lands, Renewable Energy

Industries

Infrastructure

Sustainable Groundwater Management

Groundwater management in California has entered a new paradigm with the Sustainable Groundwater Management Act (SGMA) of 2014. Brad works extensively with clients in navigating these uncharted waters. In doing so, he draws upon his experience in numerous groundwater adjudication and litigation matters, including in the Chino Basin and the Antelope Valley Basin. He serves as counsel to the Chino Basin Watermaster and the South Tahoe Public Utility District in the development of Sustainable Groundwater Management Plans, Plan Alternatives and AB3030 Groundwater Management Plans. Examples of Brad's adjudication, litigation and SGMA experience include:

- 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.

- Represented a town with substantial groundwater rights in Nevada's Carson River Valley with regard to water rights litigation commenced by the Pyramid Lake Paiute Tribe of Indians. Litigation included challenges to State Engineer rulings on water right change applications for new development. Cases were filed in both federal district and state district courts and involved issues of jurisdiction and venue in addition to substantive water law.

Hospitality Water Supply

Where there are golf courses, hotels and ski resorts, there is a need for a sustainable water supply. Brad understands the legal matters surrounding this niche area of the resort industry well. He regularly advises resort clients regarding water supply due diligence while vetting potential acquisitions, water supply strategy and in navigating water right and rate disputes.

- Representation of a golf course in a water rate proceeding before the Arizona Corporations Commission. Presentation of evidence and testimony regarding impacts of proposed increases in rates for the course's irrigation water supplies.
- Negotiated and consummated the purchase of an 18-hole golf course, club house and related facilities located in Henderson, Nevada.

Infrastructure and Energy Development

Especially in the West, water supply, rights and strategy are critical elements of energy and infrastructure development viability. Brad assists his clients in the infrastructure and energy industry with special water rights and transaction counsel and is able to leverage the firm's land use, real estate and corporate expertise in these sectors to offer efficient solutions for his clients. His work includes water diversion and acquisition agreement negotiation for water infrastructure projects as well as water rights due diligence for large clean energy projects.

- Negotiated an agreement for the joint use of the Upper American River Project ("UARP") for the benefit of El Dorado County, an area of origin community at the headwaters of the American River. The agreement provided access to the UARP and the right to divert and store up to 40,000 acre-feet of water annually.
- Served as Nevada water rights counsel to Quantum Utility Generation, LLC in connection with its purchase of general partnerships that together own an approximately 85-megawatt cogeneration facility located in Clark County, Nevada.
- Served as water rights counsel for an Indian tribe in the development of a 200-megawatt concentrated solar project in southern Nevada.
- Serves as water rights counsel for a global solar power company in securing water supplies for the location of its projects in the Southwest.

Representative Matters

- On behalf of California building industry association, obtained invalidation of Numeric Effluent Limits in State Water Resources Control Board NPDES Construction General Permit for stormwater discharges. The Sacramento Superior Court invalidated NELs for turbidity and pH based on the Board's failure to support the NELs with sufficient evidence establishing that the NELs could be achieved, and its failure to undertake the necessary control technology analysis under the Clean Water Act for a NPDES permit.
- In two separate cases approved changes to Carson River water rights, pursuant to *United States v. Alpine Land & Reservoir Company*. Both cases included approvals to points of diversion, manner of use and place of use for decreed water rights.
- Litigation challenging State Board issued NPDES general permit for stormwater discharges associated with

construction activities as violating the federal Clean Water Act and California's Porter-Cologne Act.

- Served as Nevada water rights counsel for a Nevada Indian tribe in the development of a 200-megawatt concentrated solar project in southern Nevada.
- Lead Counsel, Antelope Valley Groundwater Adjudication, Los Angeles Superior Court, Judicial Council Coordination Proceeding 4408 representing long-time water user landowners. 2002 to 2016.
- Brownstein successfully negotiated a complex, 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. Brownstein continues to provide legal support associated with obtaining all regulatory approvals of the settlement and its implementation.
- Prosecute water right applications with the State Water Resources Control Board for supplemental water to meet general plan needs.

News & Events

- Amy Steinfeld & Brad Herrema Named Water & Wastes Digest 2017 Young Water Professionals
- Water Rights in California
- AGWA-AGWT Annual Conference
- Brownstein Hyatt Farber Schreck Names Eight New Shareholders
- Bradley Herrema Appointed to Sansum Diabetes Research Institute Board of Trustees
- Brad Herrema named in "40 Under 40" list by the Pacific Coast Business Times
- El Dorado Water & Power Authority Selects Brownstein for Supplemental Water Rights Application

Community

Celiac Disease Foundation, Director

Sansum Diabetes Research Institute, Trustee (2008-2015)

Publications & Presentations

- Where There's Smoke There's Water: The Conundrum Of Cannabis Farming In California With Federal Project Water, Co-author, *Brownstein Client Alert*, February 7, 2018
- 2017 Groundwater Law Workshop, Co-Chair, 2017 Groundwater Law Workshop, Sacramento, CA, October 2, 2017; Life in Adjudicated Basins Panel Moderator
- Brownstein Water: Current Trends in Water Law & Policy, Contributor
- Five Things to Know About the State Water Resources Control Board's Draft Climate Change Resolution, Co-author, *Brownstein Client Alert*, Feb. 21, 2017
- President Signs Sweeping Water Legislation to Address Nation's Water Woes and to Aid Parched California, *Brownstein Client Alert*, December 19, 2016
- Sustainable Groundwater Management, Speaker, GRA Southern California Branch and Inland Geological Society (IGS), Riverside, CA, October 5, 2016
- Handling the Application, Lease, Transfer and Sale of Water Rights, Speaker, Water Rights in California, National Business Institute, Pasadena, CA, January 11, 2016
- The Existing Powers of Local Agencies to Regulate and Manage Groundwater Prior to SGMA, Speaker, Pre-SGMA Groundwater Regulation and Management: Existing Tools with Local Examples, Groundwater Resources Association of California, Sustainable Groundwater Management Act, Part 7, Webinar, July 15, 2015
- Local Groundwater Ordinances and Other Management Actions, Speaker, Groundwater Law Conference,

American Ground Water Trust, San Francisco, CA, May 15, 2015

- Legal Agreements for GSA's, Moderator, Sustainable Groundwater Management Series Webcast, Part 5, Groundwater Resources Association of California, April 15, 2015

Education

- J.D., 2003, University of Michigan Law School
- B.A., 2000, *cum laude*, Hope College
- 1999, Institute for the International Education of Students, Salamanca, Spain

Admissions

- California
- Nevada
- U.S. Supreme Court
- U.S. Court of Appeals, Ninth Circuit

Recognition

Hope College Miles Award in Law, 2000

Top 40 Under 40, *Pacific Coast Business Times*

Young Water Professionals Award, *Water & Wastes Digest*, 2017

Membership

Groundwater Resources Association of California, Director