



## News Alert

### MKB Clients Win Groundwater Storage Case

*Water Supply Reliability and Lower Water Cost Will Result*

July 14, 2010

On July 7, 2010, the Cities of Cerritos, Downey and Signal Hill (the "Cities"), represented by McCormick Kidman & Behrens, defeated an attempt by the Water Replenishment District of Southern California ("WRD") and its allies to exploit the fifty year old groundwater extraction rights adjudication in the Central Basin (*Central and West Basin Water Replenishment Dist., etc. v. Adams, et al*, LASC Case No. C786656 [the "Central Basin Judgment"].) The Cities were allied with the Central Basin Municipal Water District ("CBMWD"), represented by Sedgwick, Detert, Moran & Arnold LLP.

The WRD proposal to add a storage framework to the Judgment sought to undermine groundwater production rights in a way which would have significantly increased groundwater costs in the Central Basin, one of the basins underlying southeastern Los Angeles County (the "Storage Framework"). Thus, the outcome is a major victory for the Cities in their efforts to assure water supply reliability for their communities and to prevent significantly higher costs.

- The Storage Framework proposed to eliminate the "use it or lose it" principle from the Central Basin Judgment which encourages pumpers to lease out their unused water rights rather than lose them. The Cities depend greatly on leased groundwater, because it costs much less than imported water. An increase in prices of even 25 % would have increased the three Cities' costs by at least half a million dollars per year, if unexercised water rights were available for lease in the first place.
- The Storage Framework proposed to allow holders of unexercised water rights in the West Coast Basin to "store" and later produce their water rights in the Central Basin without first putting new wet water into the Central Basin. This threatened to increase the overdraft in the Central Basin, interfere with the Cities' adjudicated rights, and drive water prices up for the Cities' customers.

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- The Storage Framework proposed a comprehensive governing structure for the Central Basin, with WRD predominantly in control. The Framework proposed powers far exceeding the current Watermaster's responsibilities, without providing for appropriate checks and balances.

Los Angeles County Superior Court Judge Holly E. Kendig agreed with the legal objections to WRD's Storage Framework on the grounds that the original Judgment adjudicated only extraction rights in the Central Basin and therefore could not be expanded to now provide for the elaborate Storage Framework, including the storage of water from a completely separate groundwater basin. (July 7, 2010 Order [the "Ruling"].)

The Court's Ruling rejected significant changes to the established legal rights of over 130 Central Basin parties through the backroom negotiation and agreement by just 8 parties: WRD, Golden State Water Company, California Water Service Co and the Cities of Lakewood, Long Beach, Los Angeles, Huntington Park, and Vernon. The Court noted:

The Motion to Amend does not seek minor or uncontroversial amendments. Instead, it seeks major changes to the prior Judgment in order to implement a complex water storage system between the Central Basin and the West Basin water districts. The proposed amended water storage program is apparently the result of a negotiated agreement among some, but not all, of the parties to the original Judgment.

(Ruling at 9 [emphasis added].)

In conjunction with the recent decision by Judge Aragon in *California Water Service Co. v. City of Compton, et al*, LASC Case No. C506806, denying the companion effort to impose the same Storage Framework in the West Coast Basin, the Ruling also halts WRD's attempt to functionally merge the two Basins County and acquire broad powers over the management of both Basins.

MKB congratulates Art Kidman, David Boyer, Patricia Quilizapa and Tram Tran on the successful outcome. MKB also congratulates Curtis Parvin, Douglas Wance and Eric Strongin at Sedgwick, Detert, Moran & Arnold LLP, who represented CBMWD.

For more information, contact [Dave Boyer](#) or your MKB attorney at 714-755-3100.

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