

RWG Secures Appellate Victory Upholding Public Agency Fees in SGMA Case

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In the first appellate case to interpret the regulatory authority of groundwater sustainability agencies, RWG attorneys have secured a significant victory. The California Supreme Court declined to review the Court of Appeal's decision that upheld application of the "pay first, litigate later" rule to fees adopted by the Indian Wells Valley Groundwater Authority ("IWVGA") under the Sustainable Groundwater Management Act ("SGMA").

Adopted in 2014, SGMA is landmark legislation aimed at addressing the increasing problem of overdraft in many of California's groundwater basins. SGMA allowed for the creation of local groundwater sustainability agencies to manage the overdrafted basins.

IWVGA—the groundwater sustainability agency for the local groundwater basin—adopted a groundwater pumping fee to fund critical management projects. A large agricultural water pumper refused to pay the fee and then brought suit claiming that the fee violated its common law and constitutional rights to groundwater. IWVGA argued that the "pay first, litigate later" rule barred the plaintiff from bringing its claims without first paying the fee it sought to challenge.

No court had previously addressed whether the "pay first, litigate later" rule applies to SGMA fees. The Court of Appeal, acknowledging that it was a novel question of "widespread interest and importance" that "may impact thousands of water users throughout the state for years to come," sided with the IWVGA. The Court held that the "pay first, litigate later" rule applies to SGMA fees, and that the plaintiff should have paid the fees before bringing the lawsuit. This published opinion can be expected to improve the ability of SGMA agencies to effectively manage and protect the State's many groundwater basins.

Read the published opinion in *Mojave Pistachios, LLC v. Superior Court* [here](#).

RWG attorneys **James L. Markman**, **Kyle H. Brochard**, and **Jacob C. Metz** represent the Indian Wells Valley Groundwater Authority in the lawsuit.

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