

CLARK HILL

Morris  
Polich &  
Purdy

**Contact:**

Christopher G. Foster  
Of Counsel  
213.417.5130  
cfoster@clarkhill.com

## **Appellate Court Gives Water District Partial Victory**

The Orange County Water District (OCWD) is a public entity established by the California Legislature and empowered to manage, replenish, regulate, and protect groundwater supplies within its boundaries. In 2004, OCWD filed an action against a number of defendants to address current and threatened groundwater contamination in the North Basin. OCWD alleged each defendant owned or operated one or more industrial sites in northern Orange County where hazardous wastes (i.e., VOCs) had been released into the environment. (OCWD filed a similar suit against land owners and operators in southern Orange County.) The release of hazardous wastes had caused or threatened to cause contamination in groundwater within OCWD's geographic area. OCWD sought compensatory and punitive damages, attorney fees, costs, an order finding defendants liable for the full cost of remediation, and an order declaring the contamination a nuisance and compelling defendants to abate it. Defendants cross-complained against OCWD for, among other things, a declaration of no liability.

The trial court found in favor of defendants, and against OCWD, on its claims under the Orange County Water District Act (OCWD Act) and the Carpenter-Presley-Tanner Hazardous Substances Account Act (HSAA) and for declaratory relief. The court found that each defendant was entitled to a judicial declaration that it has no liability to OCWD for damages, response costs, or other costs claimed by OCWD or any future costs associated with OCWD's proposed remediation project. The court found that OCWD's claims for negligence, nuisance, and trespass required OCWD to establish causation as to each defendant. Given the court's causation findings in its statement of decision, it found that the District could not prevail on its claims.

In *Orange County Water District v. Alcoa Global Fasteners, Inc.*, 12 Cal.App.5th 252 (2017), the court of appeal reversed in part as to: (1) OCWD's cause of action against Northrop Grumman Systems Corporation under the OCWD Act; and (2) the declaration finding no liability in favor of Northrop. The court of appeal remanded for the trial court to reexamine the relevant evidence, receive such additional evidence as the court deemed necessary and appropriate, make new findings of fact and conclusions of law concerning the issues subject to reversal, and enter judgment accordingly. In all other respects, the judgment was affirmed.

This article is designed to provide information in regard to the subject matter and may not reflect the most current legal developments, verdicts or settlements. This information is made available with the understanding that the article does not constitute the rendering of legal advice or other professional services. If legal advice is required, such services should be sought. ©2017 Clark Hill | Morris Polich & Purdy LLP. All rights reserved.