

TOP 100

LAWYERS IN CALIFORNIA



LITIGATION

JAMES R. WHEATON

ENVIRONMENTAL LAW FOUNDATION | OAKLAND | ENVIRONMENTAL

Last year, just months before Gov. Jerry Brown signed historic legislation setting the first statewide limits on groundwater pumping, Wheaton scored another major victory in the name of protecting the state's aquifers from depletion.

Before the state's drought crisis hit, Wheaton had filed a novel lawsuit against state and county officials arguing that the state's powerful but rarely used public trust doctrine should apply to groundwater that feeds the state's rivers. Last July, a Sacramento County Superior Court agreed with Wheaton, who is president of the Board of Directors and Legal Director at the Environmental Law Foundation. *Environmental Law Foundation v. State Water Resources Control Board*, 34-2010-80000583 (Sacramento Super. Ct., filed June 23, 2010).

The case focused on the Scott River in Northern California, which Wheaton claimed had been reduced to a trickle due to excessive groundwater pumping nearby. The public trust doctrine, which stems from common law, is the idea that the government should protect natural assets for the public benefit. The doctrine has traditionally protected navigable rivers and lakes, shorelines and fish, but Wheaton argued that the doctrine should be extended to safeguard groundwater that is connected to lakes or navigable rivers like the Scott.

At the time of the ruling, Wheaton called it "a momentous decision" that would affect almost every river in the state, as most have a hydrologic connection to groundwater.

The Environmental Law Foundation is also working on groundwater quality issues, taking on a problem that many poor and rural communities around the state have contaminated drinking water wells. The group sued water regulators in the central coast region in May alleging they are illegally withholding data on groundwater nitrate pollution from the public.

>> Fiona Smith