Agua Caliente Band of Cahuilla Indians V. Coachella Valley Water District, Case No. EDCV 13-883 JGB, United States District Court for the Central District of California (BERNAL J.)

February 23, 2016

The United States District Court for the Central District of California made a ruling, in a case involving Indian water rights, that the Defendants could not rely upon certain equitable defences.

The plaintiff Agua Caliente Band of Cahuilla Indians asserts that they have occupied the Coachella valley of California, part of the Sonoran desert, since before the arrival of European settlers. The groundwater underlying the Coachella valley is in a continual state of overdraft. The plaintiff Band claims that the establishment of their Reservation in 1876 impliedly reserved to them the right to surface water and groundwater sufficient to accomplish the purposes of the Reservation, which included establishing a homeland for the Tribe. They sought a declaration that their federal reserved water rights, pursuant to the *Winters* doctrine, extends to groundwater. They also asserted water rights based upon their Aboriginal right of occupancy. The proceeding was divided into three phases.

In March 2015, following the first phase of the proceeding, the United States District Court for the Central District of California granted a declaration that the Band's federally reserved water rights, which vested at the time of the creation of their Reservation, extended to groundwater pursuant to the *Winters* doctrine. However, it dismissed the Band's claim to water rights based upon Aboriginal occupancy on the grounds that all such Aboriginal rights had been extinguished by a federal statute passed in 1851 following the Mexican-American War. This decision was summarized in our e-Newsletter of 23 July 2015.

In June 2015, the Ninth Circuit granted the petition of the defendants Coachella Valley Water District and the Desert Water Agency for permission to appeal the March 2015 ruling, and the appellate proceeding is ongoing. The District Court stayed proceedings pending the resolution of the appeal with the exception that the parties could proceed with certain legal questions, meant for phase 2 of the proceeding, relating to whether

the defendants could assert the equitable defences of laches, "balance of the equities", and clean hands.

The Court held that the defendants could not rely upon the defence of laches. It is well-established that laches may not be asserted against the United States in cases where the Government is acting as trustee for an Indian tribe. The Court rejected the argument of the defendants that this principle had been questioned in more recent caselaw. Likewise, the Court rejected the defendants' argument that the affirmative defence of "balancing of equities" could be applied in cases involving federal water rights. There is clear authority from the U.S. Supreme Court that this is not the test.

The Court further held that the defence of unclean hands could not be used. The determination of reserved water rights, including groundwater, is not governed by state law, but is derived from the federal purpose for the reservation. Only Congress has the power to dispose of property belonging to the United States. The Government cannot be deprived of its paramount property rights due to conduct by individuals, including Government agents, who have no authority to dispose of Government property.

The Court therefore allowed the application of the Band and the United States for summary judgment, and held that the defendants could not raise the equitable defences of laches, balance of the equities, or unclean hands.

A link to the Court's judgment can be found here.

By

Scott Kerwin

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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