As lead counsel for the Orange County Water District (OCWD), Pillsbury’s Environmental, Land Use & Natural Resources team helped secure clean drinking water for more than two million Southern California residents by leading more than 10 years of proceedings before the California State Water Resources Control Board.

In July 2009, following several days of evidentiary hearings, the State Board issued a permit to OCWD to appropriate 362,000 acre feet of water annually (AFA) from the Santa Ana River. This decision approved OCWD’s application for approximately 250,000 AFA, representing the maximum current diversion by OCWD, plus an additional 112,000 AFA, which would be added by near-term, future projects. OCWD will have until December 31, 2057 to complete any necessary construction and apply the first 362,000 AFA to beneficial use.

OCWD also requested up to an additional 143,000 AFA for possible long-term, future projects. The State Board agreed to hold that portion of OCWD’s application in abeyance for 15 years, so that if OCWD decides to pursue these long-term future projects and completes CEQA analysis of those projects, it can seek the additional rights without the need to restart the permit process.

This permit was critical to OCWD, an agency created by the California legislature, which manages the groundwater supply for more than 2 million Orange County residents and 20 water agencies. When OCWD first sought the water rights, the Santa Ana River had just been “closed” to further appropriation by the State Board. Pillsbury successfully petitioned to re-open the river, helped manage the environmental review process, negotiated through eight protests, and ultimately went to hearing with all protests resolved. The firm also secured favorable comments on OCWD’s application in its cross-examination of the Center for Biological Diversity, an environmental organization which had opposed applications by other water districts.

The value of these water rights can be measured by the fact that a single acre foot of water is worth between $500 and $1,000 or more. The rights secured for OCWD do not expire as long as OCWD puts the water to beneficial use.