



SEAN T. HOOD

Director

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Phoenix, Arizona

Sean chairs the firm's largest practice group, business litigation. Sean is a litigator and water lawyer with nearly 20 years of experience advising Fortune 500 companies and other businesses on a broad range of disputes involving water rights, environmental permitting, partnership and shareholder interests, and real estate.

Sean has a strong track record of success in the courtroom (see Representative Cases, below) and in achieving advantageous settlements for his clients. He has wide-ranging trial experience in complex water rights litigation in state and federal court, and has been lead counsel in each trial to resolve contested water right claims in the Gila River General Stream Adjudication.

Sean helps his clients acquire and protect their surface water and groundwater supplies used for mining, industrial, municipal, and agricultural purposes. Sean advises clients on a wide range of Western water rights issues, including the Drought Contingency Plan (DCP) and other Colorado River issues. Sean has in-depth experience litigating federal reserved water right claims and issues concerning subflow. He also litigates issues arising under the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA), and has successfully defended land ownership interests in navigability for title proceedings under the Equal Footing Doctrine.

Sean handles cases throughout the West. He practices regularly at the trial and appellate levels in state and federal courts, as well as before a variety of administrative boards and commissions. Sean is an author on various natural resources topics, including implementation of California's Sustainable Groundwater Management Act (SGMA).

When not in a court room, Sean is spending time with his wife and three children, rooting for the Notre Dame Fighting Irish, or playing guitar with his band, Retro-Active.

EDUCATION

- J.D., with honors, Notre Dame Law School
- B.S., Santa Clara University

AREAS OF PRACTICE

- Agribusiness
- Business and Finance
- Mining Law
- Natural Resources, Energy and Environmental
- Water Law

REPRESENTATIVE CASES

- Represents a number of industrial and agricultural water users in separate water rights settlement efforts involving an array of competing water users .
- Represented an industrial water user in litigation concerning water beneath the San Pedro River that should be treated as groundwater rather than subflow. Through the presentation of expert testimony, demonstrated that the water beneath the stream alluvium must not be included in the Arizona Department of Water Resources' (ADWR) representation of subflow, and must instead be treated as groundwater. See the order [here](#).
- In proceedings concerning the test to estimate whether a well's cone of depression has the potential to deplete stream flow, presented technical evidence successfully demonstrating that a numeric MODFLOW model should be used rather than a less-sophisticated (i.e. less accurate) analytical model. See the order [here](#).
- Recently represented a real estate developer blocked from selling lots due to the sanitary district's wrongful refusal to approve service. Conducted an expedited evidentiary hearing and demonstrated for the Court that the district's action constituted an illegal moratorium. Complete relief was obtained for the client within weeks of filing the complaint. See the order [here](#). Sean then prevailed in the Court of Appeals, and secured separate attorneys' fees awards in both courts.
- Acted as lead counsel in the first trial to resolve a set of contested water right claims in the 44 year history of the Gila River General Stream Adjudication. Defeated a host of federal reserved right claims, including the Federal Government's claim to all of the water that flows naturally within the wilderness area. *In re Aravaipa Canyon Wilderness Area*, No. W1-11-3342, Superior Court of Arizona, Maricopa County.
- Acted as lead counsel in each of the successive trials to resolve water right claims in the Gila River General Stream Adjudication.
- Defeated the adverse party's federal reserved right claims to the flow of two streams through the exclusion of expert testimony concerning streamflow quantification. Prior to trial, obtained summary judgment on claims to an additional 34 individual water sources. *In re Redfield Canyon Wilderness Area*, No. W1-11-2664, Superior Court of Arizona, Maricopa County.
- Secured judicial determinations in another case concerning (1) the federal reserved right claimant's obligation to account for available surface water supplies before obtaining a right to groundwater and (2) the limitations on the water sources available to, and places of use for, federal reserved rights. *In re Fort Huachuca*, No. W1-11-605, Superior Court of Arizona, Maricopa County.

- Represents a client in litigation concerning the Bureau of Land Management's federal reserved right claims for the San Pedro Riparian National Conservation Area. *In re San Pedro Riparian National Conservation Area*, No. W1-11-232, Superior Court of Arizona, Maricopa County.
- Successfully defended a large private landowner against the State of Arizona's claims of ownership of lands pursuant to the Equal Footing Doctrine. The dispute involved five separate proceedings requiring the development of extensive historic evidence and technical reports, the presentation of expert witness testimony, the cross-examination of various adverse expert witnesses during several weeks of hearings. Based on these proceedings, it was determined that the State of Arizona does not own the lands at issue. *In Re: Determination of Navigability of the San Pedro River, the Santa Cruz River, the Gila River, the Verde River, and the Salt River*, before the Arizona Navigable Stream Adjudication Commission.
- Represented an industrial client in successfully opposing a legal challenge to the Aquifer Protection Permit issued to the client by the Arizona Department of Environmental Quality. The case involved complex competing expert testimony concerning hydrologic issues and groundwater modeling. *In re Aquifer Protection Permit No. : P-106100*, Nos. 12-002-WQAB, 12-003-WQAB, and 12-004-WQAB (Consolidated), In the Office of Administrative Hearings.
- Represented a national business in connection with an antitrust investigation concerning a merger involving the client's two largest competitors. The representation involved the development of evidence of relative market share and coordination with federal regulators to expose the ramifications of common ownership of the two competitors. The result of the investigation was a successful settlement requiring divestiture of one of the competing businesses.

AWARDS AND HONORS

- *Southwest Super Lawyers*®, Business Litigation, 2022
- *Best Lawyers in America*®, Commercial Litigation, Litigation - Environmental, Water Law, 2019-2022
- *Chambers USA*, Leading Lawyers for Business, 2019-2021
- *Benchmark Litigation*, Future Star, 2019
- *Benchmark Litigation*, Top Litigator Under 40, Future Star, 2017-2018
- *Benchmark Litigation*, 40 & Under Hot List, 2016, 2018
- *Southwest Rising Stars*®, Business Litigation, 2012-2018
- *Benchmark*, Rising Stars, 2016
- AV® Preeminent™ Peer Review Rated (the highest rating available), by Martindale-Hubbell

ARTICLES AND PRESENTATIONS

- Quoted, "Despite one plant's failure, desalination works," Arizona Capitol Times, February 18, 2022

- Author, "California's Colorado River Water Users do not have Traditional Water Rights," *California Ag Today*, December 7, 2020
- Interview, "Abatti vs. IID: KMJ Interview & California Ag Today Op-ed," KMJ Now, December 3, 2020
- Presenter, "Implementation of California's Sustainable Groundwater Management Act (SGMA)," CLE International Arizona Water Law Conference, August 2020
- Author, "The pipeline saga may have ripple effects far beyond Las Vegas and rural Eastern Nevada," *The Nevada Independent*, August 13, 2020
- Author, "Is California Willing to Solve Its Water Crisis?" *Ag Funder News*, April 8, 2020
- Quoted, "Farmers Lawyer Up as 'Massive' Aquifer Cuts Loom," *Greenwire*, January 28, 2020
- Author, "Today is the day: GSPs for critically overdrafted high- and medium-priority basins are due to DWR," LinkedIn, January 31, 2020
- Presenter, "Understanding Arizona Surface Water Rights," Arizona Water Laws and Regulations Seminar, January 2020
- Author, "How California's New Water Regulations Will Affect Users in 2020 and Beyond," SGMA Update, October 2019
- Author, "SGMA Updates," Fennemore Client Alert, May 7, 2019
- Author, "California Wine Country May See Increased Water Use Regulation," LinkedIn, August 16, 2018
- Author, "Three Ways to Protect Your Interests as a Groundwater User in California," *Water Deeply*, June 13, 2018
- Author, "Arizona's General Stream Adjudications: After More Than 40 Years, Contested Water Right Claims Are Finally Being Litigated," *Water Resources Committee Newsletter*, ABA Section of Environment, Energy, and Resources, May 2016

PROFESSIONAL AND COMMUNITY ACTIVITIES

- Guitarist, Retro-Active, performing to benefit Alice Cooper's Solid Rock Teen Center
- Guitarist, IC/DC, performing to benefit Sentinels of Freedom (a nonprofit assisting wounded veterans complete their higher education)
- Notre Dame Club of Phoenix, Member
- Trial Practice Section, State Bar of Arizona, Member
- Environmental and Natural Resources Section, State Bar of Arizona, Member
- Colorado Bar Association, Member
- Environment and Natural Resources Section, State Bar of Nevada, Member
- Maricopa County Bar Association, Member
- Notre Dame Club of Phoenix Board of Directors, past Member
- St. Matthew's Interactive Learning Experience, past Chair
- Mining and Mineral Extraction Committee, American Bar Association, past Vice Chair-Membership

ADMISSIONS

- Arizona
- California (pro hac vice pending)
- Colorado
- Nevada
- U.S. District Court, District of Arizona
- U.S. District Court, District of Nevada
- U.S. Court of Appeals, Ninth Circuit