DOWNEYBRAND



# Andrea P. Clark
## Partner

621 Capitol Mall | 18th Floor
Sacramento, CA 95814

916.520.5424 | Direct
aclark@downeybrand.com

Practice Areas

Flood Protection Law | Food & Agriculture | Groundwater Law | Infrastructure | Regulatory Law & Business Permitting | Sustainable Groundwater Management Act (SGMA) | Water Law | Water Rights Litigation

Andrea Clark focuses on water rights and flood control, serving as general counsel to a variety of public agencies from local reclamation districts and water districts serving agricultural interests to regional joint powers authorities.

Public agencies in the water, flood control, and agricultural sectors rely on Andrea for her ability to explain in understandable terms the wide range of issues impacting them, including water rights, environmental permitting, basic transparency laws (Brown Act and Public Records Act), public bidding and contracting, public works financing, habitat mitigation transactions, and property issues. She also regularly counsels public and private clients on water transfers, Proposition 218 compliance, the California Environmental Quality Act, cultural resources, the National Environmental Policy Act, and planning and implementation of major capital improvement projects.

With a special expertise in flood control and floodplain management, Andrea is regularly asked to speak on topics ranging from flood insurance to climate change and the future of flood control policy in California. Through her representation of clients in state flood policy and speaking engagements, she has forged strong relationships with key members of the flood control community in California.

Andrea also counsels private clients, including landowners, farmers, and mutual water companies on water supply matters, including due diligence, water rights proceedings, and contractual disputes.

## Experience

- Since 2008, served as general counsel to the Sutter Butte Flood Control Agency, which has embarked on a $300 million levee rehabilitation project in Sutter and Butte Counties. Manages environmental permitting, bond financing, construction contracting, consultant contracting, human resources policies, conflicts of interest, state and Federal government relations (including U.S. Army Corps of Engineers and Federal Aviation Administration) and open meeting and public record disclosure compliance.
- Since 2009, served as general counsel to the Three Rivers Levee Improvement Authority, a joint powers authority in Yuba County that has implemented over $400 million in levee improvement projects.

Routinely covers board meetings, manages the legal aspects of large and complicated levee construction/improvement projects, and participates on TRLIA's behalf in state flood control planning processes.

- Serves as general counsel to the Ross Valley Sanitary District.
- Serves as general counsel to a variety of water districts and irrigation districts in the Sacramento Valley.
- Serves as general counsel to reclamation districts in both the Sacramento Valley and Sacramento-San Joaquin Delta, counseling on issues ranging from operation and maintenance to regional flood control planning.
- Represents public and private water entities in the Sacramento Valley participating in water transfers. This involves negotiating a purchase agreement (with south-of-Delta purchasers and others), State Water Resources Control Board permitting, U.S. Bureau of Reclamation approvals, and compliance with state and federal environmental regulations.

## Professional & Community Service

- American Leadership Forum, Mountain Valley Chapter, Class XXIII, 2019-2020
- Capital Public Radio, Board of Directors, 2018-2023
- Sacramento Metro Chamber, Executive Committee, 2020-2022; Board Member, 2017-2022
- Sacramento Metro Chamber, Cap-2-Cap Program, Chair, 2024
- Center for Land-Based Learning, Board of Directors, 2007-2017; Chair, 2015-2017
- Association of California Water Agencies (ACWA), State Legislative Committee, 2018-present
- American Bar Association, Water Resources Committee, Co-Chair, 2016-2018
- Sacramento County Bar Association, Environmental Law & Public Law Sections, 2006-2014; Chair, 2013-2014
- California Lawyers Association, Environmental Law Section
- California Association of Sanitation Agencies
- Floodplain Management Association
- Eastern Water Law and Policy Reporter, Editorial Board, 2010-2015
- Western Water Law and Policy Reporter, Editorial Board, 2010-2015

## Education

- J.D., University of Michigan Law School, 2002
- B.A., University of California, Berkeley, 1998

## Honors & Rankings

- Best Lawyers in America©, Natural Resources Law, 2024
- Best Lawyers in America©, Water Law, 2023-2024
- *Sacramento Magazine*, Top Lawyer, Environmental, Energy & Natural Resources, State, Local & Municipal, 2015-2022
- *Sacramento Business Journal*, Best of the Bar, 2018
- Goddard Award for Outstanding Article in Floodplain Management, Floodplain Management Association, 2016

## Speaking Engagements / Events

- *Ethics Training (AB 1234)*, 2023 ACWA Fall Conference & Expo, November 30, 2023
- *NFIP Moving Forward: Analyzing Pending Changes and Their Effect on Water/Waterways Infrastructure*, National Waterways Conference 2023 Annual Meeting, October 3, 2023
- *Flowage and Habitat Conservation – Can they Coexist?*, Moderator, Floodplain Management Association Annual Conference, September 7, 2023
- *Legal Update on NFIP and Public Camping on Levees*, Floodplain Management Association's Annual Conference, September 9, 2021
- *Keeping Flood Infrastructure Projects and Maintenance Going During Times of Crisis: A Legal Perspective*, Floodplain Management Association's Annual Conference, September 9, 2020
- *Restarting the Machine: A Roundtable Discussion About Issues Facing Local and State Government Agencies as They Reopen*, SCBA Public & Environmental Law Sections, Webinar, June 1, 2020
- *Floodplain Management and Endangered Species*, Panelist, Floodplain Management Association's 2019 Annual Conference, September 5, 2019
- *Fundamentals of Flood Management Law and Liability*, Moderator/Panelist, Floodplain Management Association's 2019 Annual Conference, September 3-6, 2019
- *Water Resource Infrastructure Financing Under the Trump Administration*, Moderator/Panelist, Floodplain Management Association's 2018 Annual Conference: Sustainability in the Face of Change, September 4-7, 2018
- *Water Transfer and SGMA*, Moderator, ACWA 2018 Spring Conference & Exhibition, May 10, 2018
- *Utilization of Water Transfers to Recharge Groundwater Basins*, Moderator, 14th Annual California Water Law Symposium, January 20, 2018
- *NFIP Reauthorization: Current Status and Key Issues*, Presenter, Floodplain Management Association Luncheon, January 18, 2018
- *Navigating Floodplains and Flood Risk*, Co-Chair and Presenter, The Seminar Group, December 8, 2017
- *Floodplain Development and Management in Northern California*, The Seminar Group, November 17, 2017

- *NFIP and Environmental Compliance*, Presenter, The Seminar Group's Seminar on Floodplain Development and Management in Northern California, November 17, 2017
- *AB 52 and a New Era in Tribal Engagement on Environmental Review and Regulation*, Panelist, California State Bar Environmental Law Section MCLE Conference, November 3, 2017
- *Addressing Housing Issues in the Coastal Zone*, Moderator, California State Bar Environmental Law Section MCLE Conference, November 3, 2017
- *Evolving Role of State Law in the Protection of Streams and Surrounding Resources*, Moderator, California State Bar Environmental Law Section MCLE Conference, November 3, 2017
- *Northcoast: Your Voice, Your Future - Rivers, Tribes, Cannabis and Environmental Change*, State Bar of California Environmental Law Section MCLE Conference, November 3, 2017
- *Flood Control in Sacramento*, Presenter, California Real Estate Women, Sacramento Chapter, October 12, 2017
- *California's Water Law, Policy and Regulation: Coping with Drought, Floods and the New Federal Administration*, Argent Communications 32nd Annual California Water Law & Policy Conference, June 12-13, 2017
- *A Local Perspective on Aging Flood Control Infrastructure*, Presenter, Argent Communications 32nd Annual California Water Law & Policy Conference, June 12, 2017
- *Legal and Practical Considerations Regarding Cultural Resources and AB 52*, Presenter, League of California Cities Annual Conference, October 7, 2016
- *Hydrology and the Law*, Law Seminars International, September 15, 2016
- *The Transition from Drought to Too Much Water Too Fast: Weather Forecasts and Reservoir Management*, Presenter, Law Seminars International Hydrology and the Law Seminar, September 15, 2016
- *The Federal Handle in Flood Control: Legal and Practical Considerations Regarding Cultural Resources*, Moderator & Panelist, Floodplain Management Association Annual Conference, September 8, 2016
- *Water Rights in California*, Co-presenter, National Business Institute, August 16, 2016
- *AB 52, Tribal Cultural Resources, and CEQA*, Moderator/Co-presenter, Bar Association of San Francisco Environmental Law Section, May 25, 2016
- *Conduct and Ethics Training for Water Agency Officials: A Primer on AB 1234*, Co-presenter, ACWA 2016 Spring Conference & Exhibition, May 5, 2016
- *Perspectives on Agriculture, Food & Water*, Co-Chair, Sacramento Metro Chamber 3rd Annual Symposium, September 25, 2015
- *Flood Control and Cultural Resources: Legal and Regulatory Consideration*, Speaker, Floodplain Management Association 2015 Annual Conference, Indian Wells, September 10, 2015
- *Water Markets and Water Transfers: Critical Water Management Strategies*, Presenter, ABA Annual Water Law Conference, Denver, June 4, 2015
- *California Water Laws and Regulations Conference*, Flood Control in the Central Valley, January 29, 2015

- *Water Resources Reform and Development Act: Opportunities for Federal Engagement in Flood Control, Floodplain Management Association 2014 Annual Conference, Santa Clara*, Moderator, September 2014
- *Ethics and Water: Hypotheticals for Water Resources Lawyers, American Bar Association Annual Water Law Conference, Las Vegas*, Presenter, June 2014
- *CEQA and Cultural Resources: Current Issues, Sacramento Bar Association Environmental Section Luncheon*, Speaker, March 2014
- *2012 NFIP Reform: Legal Implications for Public Entities, Floodplain Management Association*, 2013 Annual Conference, Anaheim, Speaker, September 2013
- *Water Lawyers and Ethics – Hypotheticals for Lawyers, American Bar Association Annual Water Law Conference (Las Vegas):*, Presenter, June 2013
- *Flood Symposium, Phi Alpha Delta, Cal. State University, Sacramento*, Speaker, May 2013
- *Association of California Water Agencies Ethics Training for Water Agency Officials: Ethics and Public Service Laws and Principles*, Speaker, 2007, 2008, 2009, 2009, 2010, 2013
- *Flood Liability for Water System Operators, Association of California Water Agencies: CLE for Water Professionals, Napa*, Speaker, October 2012
- *Floodplain Management Association: Failure to Communicate: Legal Implications of Flood Risk Communication, 2012 Annual Conference, Sacramento, Moderator*, September 2012
- *The Future of Floodplain Management in California: The Central Valley Flood Protection Plan*, Presenter, Argent Communications 27th Annual California Water Law & Policy Conference, April 19, 2012
- *Floodplain Management Association: Local Agency Financing for Flood Control Improvements: Compliance with Proposition 218, 2011 Annual Conference, San Diego*, Speaker, September 2011
- *American Bar Association 29th Annual Water Law Conference (Feb 2011, San Diego), Climate Change and Floodplain Management: A New Perspective for Water Lawyers*, Moderator, February 2011
- *Floodplain Management Association: Financing Flood Control Improvements: Recent Court Decisions Affecting Proposition 218 Assessments, 2010 Annual Conference, Henderson, NV*, Speaker, September 2010
- *Floodplain Management Association: Financing Strategies and Proposition 218, 2009 Annual Conference, San Jose*, Speaker, September 2009
- *Association of California Water Agencies: California Water Transfers – Vintage 2008 and Beyond, 2008 Fall Conference, Long Beach*, Moderator, December 2008
- *Northern California Water Association and Downey Brand Ethics Training for Local Agency Officials: AB 1234: Laws Relating to Personal Financial Gain by Public Servants, Sacramento & Yuba City*, Speaker, May 2006

## Publications

- *Floodplains and Flood Risk: A Brief Overview of Changing Management Responsibilities*, The Water Report, Issue 165, November 2017

- *Preparing for Extreme Floods: California's New Flood Plan, Natural Resources and Environment*, Co-authored with Alf W. Brandt, Fall 2012
- *Neighbor Disputes: Law and Litigation, a book published by the Continuing Education of the Bar (CEB)*, Co-authored of Water Chapter, January 2012
- *Western Water Law & Policy Reporter*, Editor, Flood Control Monthly Articles, 2011-Present
- *Eastern Water Law & Policy Reporter*, Editor, Flood Control Monthly Articles, 2011-Present
- *California's Central Valley Flood Protection Plan: An Opportunity to Limit Liability*, Floodplain Management and Liability Reporter Vol. 1, No. 7, Co-authored with Timothy Washburn, April 2010
- *A Look Back -- Flood Management in California Since Hurricane Katrina*, Floodplain Management and Liability Reporter, Vol. 1, No. 1, October 2009
- *Climate Change and Water in California*, Co-author, Western Water Law and Policy Reporter, Vol. 13, No. 6, April 2009
- *Floodplain Management and Liability Reporter*, 2009-2010
- *Responding to Impacts of Climate Change on California's Water Resources*, Sacramento Lawyer Magazine, May/June 2008
- *Lightening the Lode: A Guide to Responsible Large-scale Mining*, Co-author, Conservation International, 2000

## Legal Alerts

- *UPDATED: In Response to Concerns Regarding COVID-19, Governor Newsom Grants Additional Flexibility for Public Agency Teleconference Meetings*, March 18, 2020
- *In Response to Concerns Regarding COVID-19, Governor Newsom Suspends Some Requirements applicable to Public Agency Teleconference Meetings*, March 12, 2020
- *New Law Mandates That Special Districts Maintain Public Websites by January 2020; Limited Exemptions Available*, February 13, 2019
- *AB 2257: New Brown Act Requirements for Meeting Agendas on Local Agency Websites Effective for Meetings Held on and after January 1, 2019*, September 13, 2018
- *California Supreme Court Confirms Certain Groundwater Pumping Charges are Outside Scope of Prop 218*, December 4, 2017
- *California Supreme Court Rules That Independent Contractors Are Not Excluded From Section 1090's Conflict Provisions*, August 15, 2017
- *Appellate Court Holds That Constitution Overrides Statutory Exemption Related to Proposition 218 Assessments; Reclamation Districts Are Permitted to Assess School Districts*, April 7, 2017
- *California Supreme Court Rules Public Officials' and Employees' Personal Accounts Do Not Escape Reach of Public Records Act*, March 3, 2017
- *SB 272: A New Disclosure Requirement Under the Public Records Act, Effective July 1, 2016*, July 22,

2016

- *U.S. Supreme Court Upholds Hawkes Ruling that Wetland "Jurisdictional Determinations" Are Subject to Judicial Review*, June 13, 2016
- *Update: California Supreme Court Holds Inadvertent Production of Attorney-Client Privileged Documents under a Public Records Act Request Does Not Waive the Privilege*, March 18, 2016
- *Showdown at California Supreme Court over Waiver of Attorney-Client Privilege in Public Records after Inadvertent Disclosure*, August 18, 2015
- *Appeals Court Decides Crucial Case On State Fish And Wildlife's Extension Of Streambed Alteration Limits To Existing Water Diversions*, June 6, 2015
- *California Supreme Court Delivers Long-Awaited Ruling In Berkeley Hillside*, March 4, 2015
- *Immediate Curtailment of Post-1914 Appropriative Water Rights*, May 29, 2014
- *Updated Water Supply Amounts for State and Federal Projects*, April 21, 2014
- *Governor Brown Signs Emergency Drought Legislation Into Law*, March 2014
- *More Stringent Permit Likely After Court Strikes Down Discharge Permit in Central Valley*, November 2012
- *No Tax Relief for the Anexed: Court of Appeal Holds Proposition 218 Does Not Apply to Annexations*, October 2012
- *Court of Appeal Holds That CEQA Is Not Triggered By a Public Agency's Investigation of Sites for a Potential Project*, July 2010
- *California Supreme Court Confirms that the California Constitution Does Not Require Secret Ballots in Proposition 218 Ballot Proceedings*, June 2010
- *Floodplain Management & Liability Reporter*, March 2010
- *First District Court of Appeal Clarifies Calculation of Special Benefits and Proportionality for Assessments Subject to Proposition 218*, January 2010
- *EPA Excludes Water Transfers From Clean Water Act Permit Requirements*, June 2008
- *California Supreme Court Upholds CALFED Environmental Impact Report*, June 2008

## Blogs

- *Small Maui Dam Breaches, Leading to Evacuations*, March 17, 2021
- *Waiving USACE Policy Requirements: A Tool to Get Urgent Projects Completed*, September 4, 2019
- *How Flood Insurance and Endangered Species Are Connected*, July 26, 2019
- *House Financial Services Committee Schedules First NFIP Hearing of the Year*, March 12, 2019
- *Water Resources Development Act is Signed Into Law By President*, October 23, 2018
- *President Issues a Presidential Memoranda on Western Water (But Flood Is Mentioned)*, October 21, 2018

- *The Water Resources Development Act (WRDA) Finally to be Considered by the Senate*, October 7, 2018
- *USACE Appropriations Bill Signed by President, Becomes Law*, September 21, 2018
- *Federal Funding Panel Shared Interesting Perspectives at Annual FMA Conference*, September 13, 2018
- *WRDA, Appropriations, and USACE Is Staying Where It Is (for now, at least): A Busy Few Days on the Hill*, September 11, 2018
- *USACE 408 Guidance Is Officially Final (EC 1165-2-220)*, September 9, 2018
- *USACE Issues Guidance for Use of Supplemental Appropriation*, September 5, 2018
- *USACE 408 Guidance May Be Final (EC 1165-2-220)*, September 3, 2018
- *Will the Army Corps of Engineers lose the Civil Works mission? Looks like the Department of Defense is making some plans.*, August 7, 2018
- *No Long-Term Reauthorization Yet; NFIP Extended Through November 30, 2018*, August 1, 2018
- *USACE Issues 2018 Workplan*, June 11, 2018
- *We Are Happy to Share the Comments of the L.A. Coastal Protection and Restoration Authority*, April 12, 2018
- *Leadership Changes at FEMA's Flood Insurance Group*, April 11, 2018
- *Should the Civil Works Mission Leave the US Army Corps of Engineers?*, March 11, 2018
- *National Waterways Conference Requests More Time on Draft 408 Policy*, February 20, 2018
- *Technical Problems with First USACE 408 Webinar; Tune in Tomorrow for Second*, February 7, 2018
- *Draft 408 Guidance imminent; USACE Webinars Scheduled*, February 5, 2018
- *Why Advocacy Matters*, October 15, 2017
- *Trump Nominates RD James for Assistant Secretary of the Army for Civil Works*, October 4, 2017
- *The Money Calendar - How The Federal Budget Calendar Is Circular, Not Linear*, October 2, 2017
- *Will the National Flood Insurance Program (NFIP) be reauthorized, extended, or what?*, September 7, 2017
- *How Should the Flood Management Community Deal with the Uncertainty of Climate Change?*, September 5, 2017
- *Senate Democrats Are Eager to Invest in Infrastructure, Including Flood (but what about Climate Change?)*, September 4, 2017
- *Flooding in Houston: Can We - Should We? - Plan for Such Massive Flooding Events?*, August 31, 2017
- *Trump Executive Order Issued on Federal Flood Risk Management Standard and Regulatory Reform*, August 15, 2017
- *USACE Issues Guidance on Contributed Funds for Section 408 Review*, June 29, 2017
- *James Dalton, Director of Civil Works at USACE, Offers Valuable Perspectives at Annual NAFSMA Conference*, June 28, 2017

- *New Guidance from USACE Could Streamline Processes*, June 26, 2017
- *USACE Releases FY17 Work Plan; Media Book Released on FY18 Budget Proposal*, May 24, 2017
- *Rumors of an Impending Work Plan to be Released with the Draft USACE Budget on May 23?? Well, Not Quite Yet.*, May 22, 2017
- *The FY2017 Budget Continues to Support Army Corps Activities*, May 7, 2017
- *A potpourri of Northern California news, including the latest on Lake Oroville*, April 5, 2017
- *The Trump Skinny Budget and Federal Flood Protection*, March 16, 2017
- *Update on Oroville Dam, Concerns about Fish and a Related Snow Survey*, March 14, 2017
- *The Governor Writes a Letter, and Roundup on Flooding Issues Around the State*, February 24, 2017
- *A Mishmash of News as California Gets Even Wetter.*, February 19, 2017
- *DWR Expresses Confidence That Oroville Threat Has Diminished, and Downstream Levees Will be Reinforced. And Here Comes the Rain!!*, February 17, 2017
- *Mandatory Evacuation Ends Below Oroville Dam, But the Flood Control System in the Valley Remains Strained*, February 14, 2017
- *"Dynamic" Situation at Oroville Dam: Valentine's Day Update (and in other news….)*, February 13, 2017
- *A Scary Night for Those Below Oroville Dam; And The Worst May Not be Over.*, February 12, 2017
- *Uncontrolled Releases on Oroville Dam Were Unlikely From This Storm Event; Now Certain*, February 10, 2017
- *Is Oroville Reservoir Heading Toward Uncontrolled Releases?*, February 9, 2017
- *Should California Leave the NFIP and Create its Own Flood Insurance Program?*, December 21, 2016
- *Update on El Niño, and Some Recent Flood Control History in the Central Valley*, April 15, 2016
- *Will an El Niño Weather Pattern Lead to Flooding in California's Central Valley?*, August 19, 2015
- *Inverse Condemnation Flooding Case Moves Forward in Texas*, June 19, 2015
- *New California Tribal Consultation Law Takes Effect July 1*, May 18, 2015
- *Development Set to Begin Again in Sacramento's Natomas Area*, May 24, 2015
- *Louisiana Judge Tosses Lawsuit Blaming Oil and Gas Industry for Flood Damages*, February 28, 2015
- *State Grant Program Offers $150 Million for Urban Flood Protection Projects*, February 12, 2015
- *2014 Milestone: Passage of Water Infrastructure Legislation*, January 12, 2015