

## Regulatory Law & Business Permitting

In today's business environment, most matters affecting the way that a company produces goods or services are governed – often in excruciating detail – by administrative agencies. These agencies' actions can jeopardize a company's most important resources: time and money. We understand that.

Our focus is helping our clients get their project done on time and on budget. Being headquartered for almost 90 years in Sacramento has given us the opportunity to represent clients thousands of times before almost every state agency in California. And, with multiple offices in California we have worked with many regional and local agencies. That experience, as well as our connections with government officials from local agencies all the way to the Governor's office, gives us the unique ability to resolve problems favorably and efficiently for clients.

### Regulatory Planning and Permitting

In some cases, a company may come to us with concerns about how it should comply with an existing regulation (so as to avoid a notice of violation) or about the potential effects of a proposed regulation on its business or clients. Advising clients on how to operate their businesses profitably, while staying in full compliance with all applicable regulations, is the bread and butter of our administrative law practice. Each day, we comb through regulations to provide that advice to our clients. Our familiarity with those regulations, in turn, gives us the history and background that is needed to educate agency staff about past developments when they consider proposed regulations.

In dealing both with current regulations and proposed regulations, we have a wealth of experience in working with state and federal regulatory agencies to find solutions to business problems, to craft language that agency managers can approve, and – when necessary – to bring political pressure to bear to advance our clients' interests.

### After the Regulators Call

In other cases, a company may need to deal with a regulatory agency in order to obtain a license or permit (e.g., a permit to open a restaurant or build a new plant). In some cases, a company only learns about a regulatory agency when it receives a "Notice of Violation" or some similar effort to revoke a permit or license.

In these cases, a company often starts out "behind the eight-ball": condemned in the minds of agency staff before the first meeting. We have an excellent track record of gathering the necessary facts, summarizing applicable law, and negotiating with regulatory agencies to keep our clients' businesses up and running, with minimal interruptions, fines or penalties.

## The Right Tool for the Job

We are comfortable using a number of different tools – one at a time or simultaneously – in representing clients. We are as equally adept at informal negotiations with agency staff as we are at handling more formal quasi-legislative and quasi-judicial administrative hearings. And on occasion we've involved key legislators who provide budgetary or committee oversight of various executive branch agencies to assist constituent business people when dealing with overreaching or unfairly punitive agency decisions. These skills transcend California's boundaries and extend across state borders and all the way to Washington, D.C., where we have substantial experience in dealing with federal agencies and working with Congressional representatives and their staffs.

In the end, the administrative law practice is all about having knowledge of the substantive areas of law and about having a variety of different tools to efficiently deliver the results the client needs. We are well-versed in a variety of industries, ranging from environmental and natural resources law to intellectual property to land use, construction and real estate matters, to employment, and the production, processing and retail sales of food and fiber. Many of our clients encounter several of these different areas on a single project; we have experience building project teams so that we provide skillful advice for each phase of a project.

## Selected Experience Business

- Advised \$900 million publicly traded bank holding company on acquisition of \$200 million bank in merger transaction valued at \$24 million consisting of half cash and half publicly traded stock, including active involvement with due diligence, negotiation of Agreement and Plan of Reorganization, advising Board of Directors on fiduciary duties in connection with merger, filing regulatory applications with the Federal Deposit Insurance Corporation and the California Department of Financial Institutions, registering the stock with the Securities and Exchange Commission, rendering a tax opinion, and consummating the merger transaction.
- Assisted clients with the planning, formation and operation of real estate brokerage and property management businesses and with related DRE licensing and compliance issues.
- Handled numerous applications with the Department of Alcoholic Beverage Control involving person-to-person and premise-to-premise transfers of liquor licenses.
- Represented several commercial and residential real estate brokers in breach of contract and negligence actions and Department of Real Estate administrative hearings, and currently advise such clients on various day-to-day legal issues.
- Represent numerous member companies and their qualifying managers in licensing actions before the Structural Pest Control Board, California Department of Food and Agriculture and California Department of Pesticide Regulation.
- Represented Sacramento on legal aspects to successfully keep the Kings in Sacramento in 2013.

- Represented one of the largest grocery chains in the US to successfully solve a trade barrier with the state of California by helping to create a more efficient and less expensive legal approval process for internationally exporting goods.
- Represented one of world's largest medical imaging companies to successfully negotiate with California's health agency officials and legal counsel to develop lawful ways protect trade secrets worth billions of dollars.
- Recently persuaded the California Labor Commissioner to dismiss an employee's wage claim based on a lack of jurisdiction and routinely represent employers at Labor Commissioner conferences and hearings.

## Litigation

- Lead counsel in successful defense of California Medical Board's effort to obtain a preemptory suspension of medical license, as reported in a story by 60 Minutes.
- Lead trial counsel for land surveying company owner and president in successful defense of action brought by California Board of Professional Engineers & Land Surveyors regarding residential development surveys. 21 of 24 counts dismissed after three week trial.
- Successfully defended home energy rating provider before the California Energy Commission in matter involving third party rater licensure claims.
- Obtained relief from license restrictions for individual before the California Gambling Control Commission in connection with related civil case regarding California card room operations.
- Represented corporate taxpayer regarding "responsible party liability" in sales and use tax dispute before the California Board of Equalization in connection with related civil case regarding the sale of a business.
- Prevailed in an administrative hearing against an employee who was appealing the Employment Development Department's denial of unemployment benefits.
- Assist public employers with setting up and/or prosecuting grievance and Skelly hearings (which are required when a public employee is terminated and/or disciplined). Prevailed against an employee at a Skelly hearing regarding his termination from a Water District.
- Currently negotiating a settlement with the Department of Labor Standards Enforcement where we represent a general contractor whose subcontractor failed to properly pay its employees. Also holding back contract payments from the subcontractor (required by the Labor Code), and had to figure out a way to transmit them to the DLSE while absolving ourselves of liability to the subcontractor, so as part of our settlement we will stipulate to having the DLSE order us to send the money to them, because the subcontractor was not willing to enter an agreement.
- Represented clients involved in investigations by the EEOC, DOJ, SEC, FAA, and other agencies, as

well as represented those clients in related state and federal litigation and administrative proceedings.

- Represented proponent of California ballot proposition in writ action challenging language drafted by the California Attorney General's office for the General Election State Ballot Pamphlet.
- Represented landowners in pre-condemnation activities associated with the Department of Water Resources Bay Delta Conservation Plan and the potential Delta tunnels.
- Represent owner and operator of a hydroelectric dam pursuant to a license from the Federal Energy Regulatory Commission in several pending lawsuits. Two lawsuits settled on favorable terms for the client.
- Represented truck manufacturer in administrative trial before California New Motor Vehicle Board regarding termination of dealer. Agency upheld termination.
- Represented a Fortune 500 residential developer in various construction defect claims brought by home purchasers. Additionally represented that client before local, state and federal regulatory agencies.

## Natural Resources

- Representing a large group of Northern California water users (water districts, mutual water companies, private individuals and utilities) in proceedings before the State Water Resources Control Board relating to water quality and water right issues for the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary, as well as in connection with the Delta Stewardship Council's development and adoption of the Delta Plan.
- Advises clients on matters involving U.S. Bureau of Reclamation water contracts, water allocation and shortage policies, and compliance with federal Reclamation law; and in proceedings before the California State Water Resources Control Board.
- Advises and assists in formation of public and private water agencies such as water districts, community services districts and mutual water companies, including Local Agency Formation Commission (LAFCO) procedures, and counsels those agencies on their policies and operations.
- Assisted client in submitting comments on draft clean up and abatement order to Regional Water Quality Control Board, and in successfully arguing for removal of client from the order.
- Trial counsel on behalf of irrigation district in trial of competing plans of reorganization of PG&E and the California Public Utilities Commission in the bankruptcy of PG&E.
- Lead trial counsel on behalf of independent gas storage company in numerous regulatory proceedings, including application for certificate of public convenience and necessity, regulated utility Biennial Cost Allowance Proceeding, gas industry restructuring proceeding, expansion proceeding of another independent gas storage company, complaint proceeding brought by

investor-owned utility, natural gas storage and transmission general rate cases, gas transportation safety proceeding, and implementation of biomethane legislation.

- Lead trial counsel for ad hoc group of industrial energy customers in December 2000-January 2001 emergency proceedings at California Public Utilities Commission regarding requests for emergency rate increase from PG&E and SoCalEdison and in proceedings to establish cost responsibility surcharges of direct access customers.
- Assisting clients with more than a billion dollars in projects in California's Central Valley and issues involving the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers (USACE) throughout the Western United States.
- Represents a private landowner in connection with a claim before the Federal Civilian Board of Contract Appeals against the Federal Aviation Administration.
- Represents California's largest sanitation district located in Southern California in a variety of matters before the Regional and State Water Boards pertaining to regulatory compliance, permitting, basin planning, TMDLs, enforcement, and water quality policies. Assists with legislative matters, resulting in the successful passage of several statutes benefiting the sanitation district.
- Lead litigation counsel involved in numerous administrative appeals of NPDES permits, WDRs, reclamation requirements, and enforcement orders before the State Water Resources Control Board.
- Represents a Fortune 200 petroleum corporation at numerous facilities in California, handling a multi-party investigation and remediation of Petroleum components MTBE (additive), and BTEX in soil and groundwater at a large bulk oil storage terminal and service station site in Central California. Assembled a team of technical and public relations experts to advise the client on regulatory compliance, UST Fund issues, community relations and remediation strategies. Successfully negotiated a cash-out agreement for the client with another PRP that includes a remediation management agreement. Worked with the client to develop one of the first Public Participation Plans approved by the Regional Water Quality Control Board.
- Represented one of the largest privately held forest products companies on the West Coast, which owned 900 acres at and adjacent to the J.H. Baxter Superfund Site. Handled administrative proceedings and negotiations on allocation issues and negotiated with EPA Region IX concerning the RI/FS, and the Record of Decision. Resolved various over-filing issues with the State of California, including permit issues that arose during the implementation of the remedy with the Regional Water Quality Control Board. Obtained a technical impracticability waiver from EPA that substantially limited the scope of the remedy and reduced costs. Successfully resolved EPA's multi-million dollar claim for past costs in the first mediation with EPA Region IX's Superfund Program.
- Served as lead counsel representing a group of agricultural interests in an appeal successfully challenging certain portions of the Central Valley Regional Board's so-called agricultural waiver—a

regulatory program governing return flows from irrigated agriculture.

- Served on the team that conducted multi-year consent decree negotiations with EPA regarding a regional groundwater contaminant plume in the San Fernando Valley. The cleanup was, at the time, the largest groundwater pump-and-treat remedy in California.