



Kathryn L. Oehlschlager Partner

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Practice Areas

Air Quality & Climate Change | CEQA / NEPA | Endangered Species | Environmental Enforcement Defense | Environmental Remediation & Due Diligence | Environmental/Toxics Litigation | Flood Protection Law | Land Use | Proposition 65 | Real Property & Land Use Litigation | Water Law | Water Quality Law

With more than fifteen years of experience in environmental law, Kathryn Oehlschlager has built a robust practice spanning environmental and land use compliance counseling, state and federal enforcement defense, and major litigation.

Public and private clients turn to Kathryn for advice on compliance with all facets of environmental and land use law, including CEQA, NEPA, federal and state endangered species laws, contaminated site remediation, water quality and supply issues, and laws regulating solid and hazardous waste. She routinely represents clients in all aspects of the CEQA project review process, including preparation, review, and analysis of negative declarations, draft environmental impact reports, and final environmental impact reports. Kathryn also has substantial experience managing contaminated sites, from investigation and remediation through the entitlement process and redevelopment.

Kathryn also has a proven track record with high-stakes litigation, having handled numerous land use and environmental cases in state and federal trial courts and through the courts of appeal. Kathryn is equally comfortable handling writs of mandamus and traditional civil litigation matters, and regularly represents clients in administrative appeals, including the second appeal ever heard by the Delta Stewardship Council.

As a compliance counselor, Kathryn's goal is to help her clients minimize downstream risk and avoid litigation and enforcement. As a litigator, Kathryn's goal is to achieve the best results for her clients, deftly navigating administrative proceedings, negotiations with regulators and opposing parties, and high-stakes trials.

Experience

- Represented a joint powers agency in defense of CEQA, Public Trust Doctrine, and real estate claims challenging environmental review and approval of a multi-million-dollar flood control project on the San Joaquin River. The trial court found in favor of the agency on all claims, and the Third District Court of Appeal affirmed in an unpublished decision.

- Representing a joint powers agency in defense of the second-ever appeal of a Delta Plan Consistency Certification, appearing in multiple proceedings before the Delta Stewardship Council, and in ongoing related permitting effort.
- Represented the California Grocers Association in a successful CEQA challenge to a municipal ordinance that would have had a significant negative impact on the industry.
- Representing a private club seeking entitlements to divert surface water from an on-site stream in order to reduce the need for municipal water supply.
- Represented self-storage corporation in connection with obtaining site approvals for flagship development in Chino Hills.
- Representing large municipality in defense of litigation filed under CEQA and the Coastal Act challenging a senior housing development.
- Counseling large municipality and several special districts on legal issues related to Native American cultural resources and tribal consultation requirements under AB 52.
- Representing a private property owners' association in the Tahoe basin in connection with permitting and entitlements for management of aquatic invasive weeds.
- Counseling a large aerospace company in connection with post-closure maintenance of deep injection wells at legacy sites.
- Representing munitions testing facility in connection with CEQA review and negotiation of complex endangered species issues for remediation project on land designated as critical habitat for a variety of protected species, including negotiation of state and federal incidental take permits.
- Representing Muslim community group in connection with CEQA compliance and litigation arising out of application to construct religious and community center in San Martin, California.
- Represented semiconductor manufacturing company in defense of toxic tort action alleging in utero exposure to contaminants in early semiconductor "clean rooms" in Silicon Valley.
- Represented City of Sunnyvale in CEQA trial and appellate proceedings resulting in published decision on selection of baseline for environmental impact analysis. *Sunnyvale West Neighborhood Ass'n. v. City of Sunnyvale City Council*, 190 Cal. App. 4th 1351 (2010).
- Represented large industrial entity identified by EPA as a CERCLA potentially responsible party for former uranium mine site in New Mexico.
- Defended various manufacturers, suppliers, and retailers in defense of Proposition 65 actions regarding acrylamide, phthalates, and lead.
- Represented Fortune 500 pharmaceutical company in complex toxic tort action filed in federal court by over 2,000 plaintiffs, alleging exposure to hexavalent chromium in groundwater and dust emissions.
- Defended large landowner in defense of contractual, common law, and statutory claims in dispute over property slated for redevelopment as major technology campus in Mountain View, California.

Professional & Community Service

- Women in Environment, Board Member, 2018-present
- Association of Environmental Professionals
- Environmental Law Institute
- Groundwater Resources Association
- California Women Lawyers
- Bar Association of San Francisco, Environmental Law Section
- American Bar Association

Education

- J.D., *cum laude*, University of California, Hastings College of the Law, 2003
- B.A., University of California at Los Angeles, 1999

Honors & Rankings

- *Sacramento Magazine*, Top Lawyer, Land Use/Zoning, 2018-2019

Speaking Engagements / Events

- *BPC Expert Briefing: CEQA Update 2019*, Bay Planning Coalition's 7th Annual CEQA Update, November 18, 2019
- *Resiliency for a Vibrant Bay Area*, Panelist, Bay Planning Coalition's 2019 Spring Summit, May 10, 2019
- *BPC Workshop: CEQA Update and Federal Regulatory Developments 2018*, Bay Planning Coalition's 6th Annual CEQA Update, October 25, 2018
- *CEQA Update 2017: Climate Change & Hot Topics Review*, Panelist, Bay Planning Coalition's 5th Annual CEQA Update, October 17, 2017
- *CEQA Update 2016*, Panelist, Bay Planning Coalition, October 5, 2016
- *CEQA Litigation Update*, Co-presenter, ACWA 2016 CLE Conference, September 15-16, 2016
- *Local Regulation of Hydraulic Fracturing in California*, Presenter, Southern California County Counsel Association Annual Meeting, November 6, 2014

Publications

- *Will San Francisco's Private Commuter Shuttles be Shut Down?*, Daily Journal, May 13, 2016
- *Calif. Drought Prompts Bout Among Regulators And Farmers*, Law360, August 5, 2015
- *Regulating Seawater Desalination in California*, The Water Report, July 15, 2015
- *User's Guide to California Water Rights*, Daily Journal, June 18, 2015

- *The New Age of Water Regulation – Who Will Float To The Top?*, San Francisco Attorney Magazine, Vol. 41, No. 2, Summer 2015
- *AB 1739; SB 1168, 1319: Groundwater Management, New Laws - Supplement to Daily Journal*, January 6, 2015
- *2014 Saw A Wave of Environmental Law Changes*, Daily Journal, December 19, 2014
- *A Brave New World of Water Regulation*, San Francisco Daily Journal, September 29, 2014
- *Water Issues Reframe State Fracking Debate*, San Francisco Daily Journal, July 14, 2014
- *Chemical Spills in NC And WV Spur Legislation*, Today's Facility Manager, March 20, 2014
- *Will 2014 Finally Be The Year For Long-Awaited CEQA Reform*, San Francisco Daily Journal, January 23, 2014
- *Shifting Landscape: California Wants to Expand the Territory Described as Wetlands*, The Registry (San Francisco Real Estate Magazine), June 2011
- *Statewide Stormwater Permit Revisions Could Limit Citizen Suits Against Industry*, San Francisco Daily Journal, April 22, 2011
- *Wet Winter Won't Stop Water Diversion Checks*, California Farmer, Vol. 294, Issue 3, p9, March 2011
- *State to Redefine Wetlands: Proposed California Regulations Conflict with Federal Law and Subject Potentially Vast Areas of New Land to Permitting Requirements*, The Recorder, February 7, 2011
- *Water May Not Flow So Freely*, The Recorder, January 11, 2018

Legal Alerts

- *WaterFix EIR Certification and NOD Client Alert*, July 24, 2017
- *Comment Deadline Approaching on State Water Board Draft Policy on Isolated Wetlands*, August 16, 2016
- *California Supreme Court Strictly Interprets State Fully Protected Species Statute and Finds Greenhouse Gas Emissions Analysis Inadequate in Newhall Ranch EIR*, December 2, 2015
- *Update: Berkeley Hillside Case Ends With Victory for Lead Agency in Court of Appeal*, October 30, 2015

Blogs

- *California Supreme Court Holds Medical Marijuana Zoning Ordinance is a Project Subject to CEQA*, August 22, 2019
- *Court of Appeal Finds No Discretionary Action in St. Helena Multi-family Dwelling Development*, February 1, 2019
- *California Supreme Court Requires De Novo Review for EIR Adequacy Challenges and Imposes Heightened EIR Requirements Connecting Environmental Impacts with Specific Health Consequences*, December 31, 2018
- *Fourth District Upholds San Diego's Addendum for Balboa Park Revitalization Project, Validates the CEQA*

Addendum Process, November 4, 2018

- *Clean Sweep for City of San Diego in Challenge to Approval of Private School*, January 12, 2018
- *DWR Certifies EIR for WaterFix, Triggering 30-Day Deadline for Opponents to File Suit*, July 25, 2017
- *Up One Day, Down the Next—California Air Resources Board Receives Mixed Reviews in its Implementation of its Cap-and-Trade Program and Low Carbon Fuel Standard*, May 9, 2017
- *Ninth Circuit Upholds Final EIS for Tahoe Area Regional Plan Update*, November 16, 2016
- *Fifth District Allows Real Party to Recover Costs of Record Preparation*, September 30, 2016
- *Court of Appeal Rejects Use of Categorical Exemption, Muddies the Waters on Standard of Review for Exceptions*, June 1, 2016
- *The End (of LOS) is Nigh: OPR's Revised Proposal on Analysis of Transportation Impacts*, April 5, 2016