



## Kathryn L. Oehlschlager

### Partner / Executive Partner of S.F. Office

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#### Practice Areas

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

With nearly twenty 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

- Representing Norway-based aquaculture corporation in connection with redevelopment of contaminated pulp mill site in Northern California to construct large state-of-the-art on-shore aquaculture facility to raise Atlantic Salmon.

- Representing the University of California in connection with various land-use projects and litigation, including development of the Long Range Development Plan for the University of California, Santa Cruz, and litigation challenging that plan under CEQA and the Education Code.
- Representing large utility in Northern California in connection with entitlements for large-scale vegetation removal and management along high-power utility lines for purposes of fire prevention.
- Representing two Reclamation Districts in litigation filed against the California Department of Water Resources challenging the Lookout Slough Tidal Habitat Restoration Project.
- Representing the Tahoe Forest Hospital District in obtaining entitlements for a 30-year Specific Plan for campus redevelopment and expansion.
- Representing Lawrence Livermore National Laboratory in connection with a wide variety of environmental issues, including compliance with NEPA in preparation of its Site-Wide Environmental Impact Study.
- Representing large municipality in defense of numerous land use litigation matters, including claims under CEQA, the Coastal Act, the Planning and Zoning Law, and local municipal code.
- Represented a joint powers agency in defense of CEQA, Public Trust Doctrine, and real estate claims challenging environmental review and approval of a multimillion-dollar flood control project on the San Joaquin River. The trial court found in favor of the agency on all claims in two separate actions, and the Third District Court of Appeal affirmed in both cases.
- Represented 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, which were resolved in the client's favor.
- 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 company in connection with obtaining site approvals for flagship development in Chino Hills.
- Counseling large municipality and several special districts on legal issues related to Native American cultural resources and tribal consultation requirements under AB 52.
- Represented the largest 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.
- Represented 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 large industrial entity identified by EPA as a CERCLA potentially responsible party for former uranium mine site in New Mexico.
- 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, 2018-present; Board of Directors, 2018-2020
- Association of Environmental Professionals
- Environmental Law Institute
- Groundwater Resources Association
- California Women Lawyers
- Bar Association of San Francisco, Environmental Law Section
- California Lawyers Association, Environmental Law Section
- American Bar Association

## Education

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

## Honors & Rankings

- Best Lawyers in America<sup>®</sup>, Environmental Law, 2023-2024
- *Super Lawyers*, Northern California Super Lawyers, Environmental Law, 2023
- *Sacramento Magazine*, Top Lawyer, Land Use/Zoning, 2018-2019

## Speaking Engagements / Events

- *(NOT) Burning Down the House*, 2024 City Attorneys Spring Conference, May 8, 2024
- *2022 Advanced CEQA Workshop*, Speaker, 2022 Advanced CEQA Workshop, March 10, 2022
- *Housing and CEQA*, Panelist, CLE International 17th Annual CEQA Conference - Year in Review, December 9, 2021

- *2021 Advanced CEQA Workshop*, Association of Environmental Professionals, April 28, 2021 & May 12, 2021
- *CEQA Basics*, SLSA, General Membership Meeting, February 18, 2021
- *BPC Expert Briefing: CEQA Update 2020*, Bay Planning Coalition's 8th Annual CEQA Update, November 19, 2020
- *CEQA and Environmental Impact Reports: 2020 Cases, Standards, Mitigation Measures, Exemptions and Lead Agencies*, Strafford Webinars, November 11, 2020
- *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

- *Department of Transportation Announces \$426.7 Million Grant to Develop Deepwater Port and Marine Terminal in Humboldt Bay*, January 29, 2024
- *California Energy Commission Releases Draft AB 525 Offshore Wind Strategic Plan*, January 25, 2024
- *Sackett v. EPA: U.S. Supreme Court Redefines Waters of the United States, Eliminating Federal Jurisdiction Over Certain Wetlands and Other Waters*, May 26, 2023
- *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

- *HAA does not Mandate Approval of Housing Project Found Inconsistent with Zoning*, January 29, 2024
- *Sixth District Says City's Specific Plan EIR Need Not Analyze Speculative Alternative Scenario Conjured by Project Opponents*, November 13, 2023
- *Court of Appeal Finds Substantial Evidence Supports City's Use of Statutory Exemption to Approve a Zoning Overlay District For Commercial Cannabis Uses*, September 13, 2023
- *California Supreme Court Grants Review in UC Berkeley People's Park Student Housing Case*, June 15, 2023
- *"It just so happens that [Governor Newsom's Sweeping New Plan to Accelerate Infrastructure Projects] is only mostly dead."* – Miracle Max from *The Princess Bride*, June 14, 2023
- *Second District Rejects CEQA and Coastal Act Challenge to Senior Facility in Pacific Palisades Area of Los Angeles*, March 15, 2023
- *Court Finds Use of Addendum Improper as Project's GHG Emissions Likely Outside the Scope of Prior Programmatic EIR and Unusual Circumstances Exception Applied to Use of Infill Exemption*, February 21, 2023

- *First District Affirms Denial of Anti-SLAPP Motion in a Malicious Prosecution Action Filed Against CEQA Petitioner's Attorney*, January 5, 2023
- *Residential Development Project Consistent with Specific Plan Found Exempt from Further CEQA Review*, October 24, 2022
- *California Enacts More Than Two Dozen Laws This Year to Combat Housing Crisis*, December 20, 2021
- *Petitioners Strike Out—Court Finds Statutory Deadline Does Not Preclude Streamlining of Oakland A's Stadium Project*, October 6, 2021
- *First District Court of Appeal Finds CEQA Claim Time-Barred Due to Insufficient Tolling Agreement*, July 26, 2021
- *First District Denies Challenge to Napa County Approval of Mining Operations Because Petitioner Failed to Exhaust Administrative Remedies and CEQA Requires Limited Review of General Plan Consistency*, June 17, 2021
- *Good News for California Housing: SB 7 Extends Expedited CEQA Review to Small-Scale Infill Housing Projects*, May 28, 2021
- *In First Published Opinion Interpreting SB 35, Court of Appeal Rejects City of Berkeley's Attempts to Avoid Application of the Law and Orders Streamlined Approval of Mixed-Use Infill Project*, May 14, 2021
- *First Appellate District Approves Responsible Agency's Imposition of Mitigation Not Considered in the EIR*, January 13, 2021
- *Trump Signs Executive Order Allowing Agencies to Bypass NEPA, ESA, and CWA Requirements*, June 9, 2020
- *Second Appellate District Expands Baseline Analysis in Upholding Environmental Impact Report for Refinery Project Intended to Help Reduce Air Pollutants*, May 29, 2020
- *To VMT or not to VMT? Third District Says Level of Service No Longer Valid to Measure Traffic Impacts, But Use of Vehicle Miles Traveled is Not Yet Required*, April 23, 2020
- *Two CEQA Statute of Limitations Cases, Two Different Results*, April 21, 2020
- *COVID-19 Alert: Judicial Council Issues Sweeping Emergency Rules; Local Agencies Issue Regional Changes*, April 8, 2020
- *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