

**Peter Hayes
Of Counsel**

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Practice Groups

Land Use
Environmental Law
First Amendment
Transportation and Infrastructure
Writs and Appeals

California Bar Number

184552

Education

Stanford University, JD, 1996

Princeton University, BA, History,
cum laude, 1981

Practicing Since: 1996

Peter Hayes specializes in trial and appellate litigation, representing clients in cases involving a wide range of state and federal land use and environmental laws, including the California Environmental Quality Act (CEQA), the state Land Use and Planning Law, the Subdivision Map Act, the Cortese-Knox-Hertzberg Government Reorganization Act, the Mitigation Fee Act, the Religious Land Use and Institutionalized Persons Act (RLUIPA), and constitutional civil rights claims in the land use context.

Peter also regularly advises clients on compliance with the laws listed above and with a variety of other state and federal environmental and land use laws, including the National Environmental Policy Act (NEPA), the Coastal Zone Management Act, the California Coastal Act, the Endangered Species Act and the National Historic Preservation Act.

Currently, Peter represents the Port of Los Angeles (POLA) in connection with their environmental review of several proposals to construct and operate major cargo terminal, marine oil terminal, and refinery facilities within the Port.

Prior to joining Meyers Nave, Peter worked at McCutchen, Doyle, Brown and Enersen in Walnut Creek, where he represented the Port of Oakland and other clients in land use and environmental litigation and processing matters.

Professional Affiliations

- Member, The State Bar of California
- Member, Environmental Law Section, California Lawyers Association

Published Decisions

- *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465

- *Hagopian v. County of Los Angeles*, 2014, 214 Cal.App.4th 349
- *International Church of Foursquare Gospel v. City of San Leandro*, 2008, 632 F.Supp.2d 925
- *International Church of the Foresquare Gospel v. City of San Leandro*, 2007, WL 2904046
- *Redwood Christian Schools v. County of Alameda et. al.*, 2007, WL 781794
- *City of Goleta v. Superior Court*, 2006, 40 Cal.4th 270
- *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners*, 2001, 91 Cal.App.4th 1344

Presentations and Publications

- Update Coauthor, *California Land Use Practice*, Chapter 13, CEB, 2020
- Author, “California Supreme Court Establishes CEQA Rules for EIR's Discussion of Health Effects,” Meyers Nave Client Alert, 2019
- Author, “Construction During Litigation Forfeits Challenge to Development Permit Conditions,” Meyers Nave Client Alert, 2017
- Author, “Court Applies ‘Fair Argument’ Review to Agency Decision on Necessity of Supplemental EIR for Project First Studied in Negative Declaration,” Meyers Nave Client Alert, 2017
- Presenter on Land Use and Environmental Law, Lorman Educational Services
- Contributor, “Land Use Litigation” Chapter, *California Land Use Practice* (CEB, 2006)
- Editor, *Curtin’s California Land Use and Planning Law* (Solano Press, 2000)

Representative Experience

- *Basin Street Properties v. City of Petaluma* (2006) (Sonoma County Superior Court Case No. SCV-23902). Successfully represented the City of Petaluma in defending against a CEQA challenge to its resolution of intent to increase water capacity charges for a new development.
- *Berkeley Keep Jets Over the Bay v. Port of Oakland* (1999). Represented the Board of Port Commissioners in its defense of the Port of Oakland’s CEQA review of its expansion plans. The case resulted in a published decision, *Berkeley Keep Jets Over the Bay v. Bd. Of Port Comm’rs* (2001) 94 Cal.App.4th 1344.
- BNSF Railway Company (2013 – present). Currently representing BNSF Railway Company in challenge brought by state Attorney General, the South Coast Air Quality Management District, the Natural Resources Defense Council and other entities to Environmental Impact Report, prepared by the Port of Los Angeles, for \$500-million near-dock rail yard project.
- *Citizens for Political Responsibility v. City of Pico Rivera Redevelopment Agency et al.* (2006-2007) (Los Angeles County Superior Court Case No. BS104265). Successfully defended the City of Pico

Rivera Redevelopment Agency against a CEQA lawsuit challenging its approval of a permit to construct a Wal-Mart super center.

- City of Barstow “DesertXpress.” Currently advises the City regarding NEPA/CEQA and related issues in connection with environmental review by the Federal Railroad Administration of a proposed high speed rail project, the “DesertXpress,” between Victorville and Las Vegas.
- *City of Fresno v. Fresno County Local Agency Formation Commission* (2011), Fresno County Superior Court Case No. 09 CE CG 02832. Successfully represented the City in a challenge to conditions of approval imposed by Local Agency Formation Commissions (LAFCo) on the City’s annexation of an “island” of unincorporated territory surrounded by lands within the City.
- *City of Goleta v. Santa Barbara County Superior Court et al.* (2005-2006) (California Supreme Court Case No. S129125). For the League of California Cities, Peter successfully argued against a claim that the City was equitably stopped from denying a final subdivision map for a residential development.
- *City of Rancho Cordova v. County of Sacramento, et al.* (2010-2012), Sacramento County Superior Court Case No. 34-2010-80000747. Represented the City of Rancho Cordova in a CEQA suit challenging the County’s EIR for approval of a new 7-million-ton-per-year hard-rock aggregate quarry. The lawsuit was resolved by an aggregate truck traffic management agreement favorable to the City.
- *City of Riverside v. City of Los Angeles* (2009-2011), Orange County Superior Court Case No. 30-2009-00123216-CU-WM-CXC. Fourth District Court of Appeal Case No. G043651. Successfully defended the Port of Los Angeles (“POLA”) in both the trial and appellate courts in a CEQA lawsuit challenging POLA’s certification of an EIR for the China Shipping Container Terminal Project. The lawsuit alleged that POLA failed to adequately analyze vehicle delays at rail crossings due to rail traffic associated with the Project.
- *Fresno County Fire Protection District v. City of Fresno* (2011) Fresno County Superior Court Case No. 10 CECG 03056. Successfully represented the City of Fresno against the Fire Protection District’s claims for damages arising from an agreement to transfer property tax revenues from areas annexed to the City. The City prevailed prior to trial on a motion for judgment on the pleadings, which was granted without leave to amend.
- *Gokoffski v. City of Larkspur* (2006) (Marin County Superior Court Case No. CV-055543). Representing the City of Larkspur, Peter successfully defended against a challenge to the City’s denial of an encroachment permit.
- *Hagopian v. California Coastal Commission, County of Los Angeles*, 214 Cal.App.4th 349 (2014). Successfully defended Los Angeles County on a complex coastal issue in the Santa Monica Mountains. The landowners built numerous structures without Coastal Development Permits (CDPs), sued the County, the State, and the California Coastal Commission in 2010, after the Commission cited the owners for violating the California Coastal Act. The owners argued that the Commission was not the proper permit-enforcement agency, and that County was required to assume permitting authority instead, by preparing and obtaining certification

of a Local Coastal Program, or LCP. The Second District Court of Appeal affirmed the Superior Court decision in the matter, and held that the County had no obligation to assume permitting authority by any particular deadline, so long as the County and the Commission continued to work together toward certification of an LCP. The Court also held that, pending completion and certification of an LCP, the Commission remained the duly authorized body to administer and enforce CDPs in the Santa Monica Mountains area.

- *International Church of the Foursquare Gospel v. City of San Leandro*. Currently representing the City of San Leandro in a challenge under the Religious Land Use and Institutionalized Persons Act (RLUIPA) to the City's denial of a request for rezoning property in an industrial zoning district to allow religious assembly use.
- *Ligeti et al. v. Town of Los Altos Hills* (2003-2005) (Santa Clara County Superior Court Case No. CV815291). Successfully represented the Town of Los Altos Hills in a challenge to a revocation of a building permit to enlarge and remodel a historical residential structure.
- Los Angeles World Airports (LAWA) (2004-2005). Los Angeles Airport Master Plan. Assisted in the defense of the approval of the LAX Master Plan against the following consolidated lawsuits alleging violations of the CEQA and the California Coastal Act.
 - *Alliance for a Regional Solution v. City of Los Angeles et al.* (County of Riverside, Superior Court Case No. 426822)
 - *City of El Segundo v. City of Los Angeles et al.* (County of Riverside Superior Court, Case No.426822)
 - *County of Los Angeles v. City of Los Angeles et al.* (County of Riverside Superior, Court Case No. 426822)
 - *Federation of Hillside and Canyon Associations v. City of Los Angeles et al.* (County of Riverside Superior Court Case No. 426822)
 - Also assisted in the environmental review of LAWA's \$240 million LAX South Airfield Improvement Project (SAIP), the first project to be implemented under the LAX Master Plan. Peter worked closely with LAWA staff, consultants and the City Attorney's office to ensure that the SAIP was consistent with the LAX Master Plan and legally defensible.
 - Currently advising LAWA on environmental review of proposed LAX North Airfield Safety Improvement Program.
- *Mammoth Lakes Land Acquisition LLC v. Town of Mammoth Lakes*, Case No. C059239 (2010-2011). On behalf of the League of California Cities and the California State Association of Counties, filed an amicus brief in support of an appeal, by the Town of Mammoth Lakes, of a judgment requiring the Town to pay approximately \$30 million in damages for alleged breach of a Development Agreement.
- Port Of Los Angeles
 - Pacific L.A. Marine Terminal, Tank Farms, and Pipelines Project. Advised the Port of Los Angeles (POLA) on compliance with CEQA and NEPA in connection with its preparation (along with the U.S. Army Corps of Engineers)

of a joint Environmental Impact Statement (EIS) / Environmental Impact Report (EIR) for a proposed crude oil terminal and related infrastructure.

- Berths 302-206 [APL] Container Terminal Project . Currently advising the Port on preparation of an EIS/EIR for improvement and expansion of the existing Berths 302-302 (APL) container terminal to accommodate 3.2 million Twenty-foot Equivalent Units (TEUs) and 390 ship calls annually at full capacity. The proposed project would install up to 8 new cranes and construct approximately 1,250 linear feet of new concrete wharf.
- Berths 97-109 (China Shipping) Container Terminal Project. Advised POLA on compliance with CEQA and NEPA in connection with its preparation of a joint EIS/EIR for a proposed new 142-acre container terminal and related infrastructure and for the China Shipping Lines at Berths 97-109 of the Port.
- Trapac Container Terminal Project. Advised POLA on compliance with CEQA and NEPA in connection with its preparation of a joint EIS/EIR for a proposed lease to expand container terminal operations at Berths 136-147.
- Ultramar Inc. (Valero) Marine Terminal Lease Renewal Project. Advised POLA on compliance with CEQA and NEPA in connection with its preparation of an EIR for a proposed lease renewal for a marine petroleum products terminal on a 10-acre site at Berths 163-164. Under the proposed lease renewal, annual throughput at the facility would increase to 17 million barrels, from an existing rate of 14 million barrels.
- Berths 302-306 APL Container Terminal Project. Represented POLA in processing joint EIS/EIR for expansion and redevelopment of an existing 300-acre container shipping terminal.
- Berths 97-109 (China Shipping Container Terminal Project) Subsequent/Supplemental EIR. Currently advising POLA on preparation of SEIR to evaluate impacts of proposed modifications to mitigation measures imposed on original approval of the China Shipping Terminal Project.
- Metrolink (2014). Represented regional passenger rail agency in preparation and public roll-out of Health Risk Analysis of emissions from urban rail yard and on mitigation effect of existing and planned emissions-control measures.
- *Redwood Christian Schools, et al. v. County of Alameda* (2003-2006) Northern District (Cal.) Case No.C01-4282). Assisted in successfully defending the County of Alameda in a challenge to its denial of a conditional use permit to build a private religious school. The challenge was brought under the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).
- *Save Strawberry Canyon v. Regents of the University of California* (Solar Energy Research Center Project) (2011), Alameda County Superior Court Case No. RG11562317. Successfully defended Lawrence Berkeley National Labs (LBNL) at UC-Berkeley in litigation challenging an Environmental Impact Report for the new Solar Energy Research Center, one of the first EIRs to address the potential environmental impacts of nanoparticle research and handling.

- *Valley Advocates v. City of Atwater* (2011), Merced County Superior Court Case No. CU151667. Successfully defended the City's approval of an EIR for a 6-million-gallon-a-day wastewater treatment plant in Atwater, which will significantly improve the city's wastewater treatment capabilities. The challenge was brought by a local resident and advocacy group. In issuing the decision, the Court held that the petitioners failed to exhaust their administrative remedies, failed to show a violation of CEQA and did not show any inconsistency with the City's general plan.