



Shaye Diveley
Principal

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Practice Groups

Land Use
Environmental Law
Trial and Litigation
Writs and Appeals
Real Estate

California Bar Number
215602

Education

University of California, Hastings College of
the Law, JD, *cum laude*, 2001

George Washington University, BA,
Journalism, 1996

Practicing Since: 2001

Shaye Diveley is a member of the firm's Land Use and Environmental Law Practice Group. She has 20 years of experience with complex issues involving land use, natural resources and environmental law compliance and litigation. Shaye has counseled and litigated on behalf of clients in matters involving the California Environmental Quality Act, National Environmental Policy Act, Clean Water Act, Porter-Cologne Water Quality Control Act, state and federal endangered species laws, and other state and federal land use and environmental laws.

Before joining Meyers Nave, Shaye was Of Counsel at a large international law firm. She specialized in natural resources, land use and environmental law, representing clients in cases of national and state significance.

Awards

- *The Best Lawyers in America*, Environmental Law, 2013-2022
- *The Best Lawyers in America*, Natural Resources Law, 2011-2022
- Northern California Super Lawyers list: Environmental, Land Use/Zoning and Natural Resources, *Super Lawyers Magazine*, 2012-2021
- Northern California Rising Stars list: Environmental, Land Use/Zoning and Natural Resources, *Super Lawyers Magazine*, 2010-2011

Professional Affiliations

- Member, The State Bar of California
- Member, Association of Women in Water, Energy and Environment
- Member, Foundation Board of Trustees, UC Hastings College of the Law

Published Decisions

- *Saltonstall v. City of Sacramento* (2015) 234 Cal.App.4th 549
- *Saltonstall v. City of Sacramento* (2014) 231 Cal.App.4th 1437
- *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301 (2013)
- *Guidiville Rancheria v. United States* (N.D. Cal. 2013) 2013 U.S. Dist. Lexis 174211
- *N. Cal. River Watch v. Wilcox* (9th Cir. 2010) 620 F.3d 1075
- *Envtl. Prot. Info. Ctr. v. Cal. Dep't of Forestry & Fire Prot.* (2008) 44 Cal. 4th 459
- *People ex rel. Gallegos v. Pac. Lumber Co.* (2008) 158 Cal.App.4th 950
- *Envtl. Prot. Info. Ctr. v. Pac. Lumber Co.* (N.D. Cal. 2007) 469 F. Supp. 2d 803

Presentations and Publications

- Author, Court of Appeal Upholds SB 35 and Orders City of Berkeley to Issue Ministerial Approval of Mixed-Use Affordable Housing Project, Meyers Nave Client Alert, May 25, 2021
- Quoted, “State signals support for Joshua tree study and ongoing development,” *Hi-Desert Star*, August 20, 2020
- Presenter, “Strategies for Obtaining Public Agency Approvals and Minimizing Legal Risks for Sports Facility Projects,” Convention, Sports, and Entertainment Facilities Conference, August 12, 2020
- Presenter, “SB 743 & VMT – CEQA Implementation and Issues for Agencies and Developers,” Meyers Nave webinar, May 21, 2020
- Presenter, “CEQA Update: New Laws on Streamlining, Exemptions and Special Legislation for Expediting the CEQA Process,” webinar hosted by the Association of Women in Water, Energy and Environment, July 2019
- Author, “AB 734: CEQA fast track puts Oakland A's in scoring position,” *Daily Journal*, January 9, 2019
- Presenter, “CEQA Update: New Laws on Streamlining, Exemptions and Special Legislation for Expediting the CEQA Process,” Alameda County Bar Association, January 2019
- Quoted, “Waterfront ballpark for Oakland A's Gets Easier with Bill Signed by Brown,” *San Francisco Chronicle*, September 30, 2018
- Quoted, “California Real Estate Regulations to Watch in 2nd Half of 2018,” *Law360*, July 9, 2018
- Presenter, “Tips to Efficiently Navigate CEQA,” Urban Land Institute San Francisco, March 2018

- Author, “CEQA: New Strategies for Streamlining Environmental Review,” *Western City*, September 2017
- Presenter, “LAFCOs and Special Districts: Pitfalls and Opportunities,” California Special Districts Association Annual Conference, 2017
- Presenter, “CEQA: New Strategies for Streamlining the Environmental Review Burden,” League of California Cities Annual Conference, 2017
- Presenter, “Elimination of Bias: Bias Issues that May Arise in the Land Use Context,” CLE International’s Land Use Law Conference, 2017
- Practice Profile, “From Way Downtown: That’s how attorney Shaye Diveley helped deliver an arena for the Kings -- and just before the buzzer,” *Northern California Super Lawyers*, July 2017
- Presenter, “Administrative Record Maintenance under the California Environmental Quality Act and the Public Records Act,” Office of the City Attorney for the City of Los Angeles, 2016
- Presenter, “Current Developments in CEQA Law and Practice,” The State Bar of California Administrative & Public Environmental Law Conference, 2015
- Author, “*Decker v. NEDC*: The Supreme Court May Not Be the End of the (Unregulated) Forest Road,” *ABA Trends*, Vol. 44, No. 3, 2013
- Presenter, “Oil, Minerals and Metals: We Need Them, So Now What?,” Sustainable Opportunities Summit, 2010
- Author, “Altamont Suit Dismissed – Environmental Group Can’t Maintain Action Based on Public’s ‘Ownership’ of Birds,” *North American Windpower*, 2007
- Author, “Evaluating Urban Decay Impacts in California Environmental Impact Reports: What Has Wal-Mart Done Now?,” American Bar Association *Environmental Impact Assessment Committee Newsletter*, January 2007
- Author, “The Riches of the Desert: Can the Bureau of Land Management Reject a Mining Operation Based on Historic and Cultural Concerns? An Analysis of the Validity of the Glamis Directive,” 32 *Envil. L. Rep.* 10603 (2002)

Representative Experience

Litigation

- Represent Burlington Northern Santa Fe Railroad in seven consolidated lawsuits challenging the company’s planned \$500 million rail transfer facility on CEQA and other environmental grounds.
- Represent the City of Los Angeles in four different CEQA lawsuits brought against the Frank Gehry-designed 8150 Sunset Project, a mixed-use development. Governor Brown designated

the project as an Environmental Leadership Development Project, the rules for which require that all legal challenges be expedited by the courts to be resolved 270 days after project approval. The project is part of the City of Los Angeles's long-range plan to revitalize its downtown area.

- Successfully defended the City of Sacramento in challenges that two groups brought under CEQA to the EIR for a downtown arena, securing two published court of appeal decisions. This arena serves as the new home for the Sacramento Kings NBA team.
- Advised Metropolitan Water District of Southern California in litigation over Biological Opinions restricting water exports from the Bay Delta because of their alleged impacts on delta smelt, salmon, and other fish listed under the Endangered Species Act.
- Successfully defended a developer in an Endangered Species Act citizen suit involving the removal of endangered plants, resulting in a favorable Ninth Circuit decision on issue of first impression.
- Defended a timber company in challenge to historic Headwaters Agreement, based on claims under CEQA, California Endangered Species Act and the Fish and Game Code's streambed alteration provisions, as well challenges to Sustain Yield Plan, Habitat Conservation Plan and other approvals for timber harvesting.
- Defeated CEQA challenge to consistency determination issued under California Endangered Species Act for timber harvesting.
- Defended a timber company in a multi-district, coordinated CEQA action challenging timber harvesting plans involving greenhouse gas emission issues, defeating motions for preliminary injunction and securing trial court victory.
- Secured dismissal of challenge under NEPA and ESA, among other statutes, of incidental take permit and timber harvesting activities for timber company.
- Successfully defended a timber company in Clean Water Act lawsuit based on allegations of sediment discharge during timber harvesting.
- Defended against federal and state qui tam actions under False Claims Act, based on allegations of errors in timber reporting for the historic Headwaters Agreement transaction. Secured dismissal of state lawsuit on motion for judgment on the pleadings.
- Represented a city in a breach of land disposition agreement case, securing judgment of the pleadings on key damages claims.
- Successfully represented a residential developer in a CEQA challenge to the use of a statutory exemption before the trial court and court of appeal.
- On behalf of a smart growth group, successfully intervened in and defeated a CEQA challenge to a city's downtown planning initiative.
- Successfully defended a timber company against a lawsuit brought under Business and Professions code 17200, based on allegations of errors made in timber reporting during CEQA and Sustained Yield Plan process.

- Secured a summary judgment for a regional airport authority in a case involving breach of ground leases and a challenge to the master planning process.
- Successfully represented a transportation company in a CEQA action challenging a mitigated negative declaration, resulting in a favorable court of appeal decision.
- Secured a dismissal of a Subdivision Map Act suit against a large property owner.
- Obtained a temporary restraining order on behalf of a mining company against a landowner interfering with reclamation work at a closed mining site.

Advice and Counsel

- Advise University of California on Endangered Species Act issues related to long-term planning programs.
- Advise a large flood control district on Endangered Species Act and Army Corps of Engineers issues related to operations of dams.
- Advise a California nonprofit public benefit corporation on conservation easements, management issues and related real property matters. Recently advised on the purchase/donation of 140 acres to be used for habitat conservation/permanent open space.
- Advised a private, non-profit organization on the conveyance of watershed lands in compliance with state and federal laws and on real property issues, including CEQA issues, Bureau of Land Management and U.S. Forest Service authorities to enter into land transactions, and California conservation easement and real property law.
- Advised residential developers on various CEQA and land use approvals, including water quality, climate change and toxic air contaminant issues, as well as policy concerns.
- Counseled a gravel mining company on CEQA and stormwater issues for several sites.
- Counseled a mining company on reopening a gold mine in Northern California, including working with a regional water quality control board on National Pollutant Discharge Elimination System (NPDES) permitting, waste discharge requirements, cease and desist order compliance and administrative penalties.
- Represented a large transportation company on endangered species and wetlands matters.
- Drafted legislation and regulatory rulemaking on timber issues, including the review and approval process for timber harvesting plans, as well as water quality, land use and transportation projects.
- Participated in rulemaking, administrative appeals and other regulatory processes in environmental and land use matters, including submitting comments and petitions for review.