

Environmental Law Series

A Legal Toolbox for Environmental Activists

Workshop VI: CEQA, NEPA & Open Government

Loyola Law School, Robinson Courtroom
919 Albany St., Los Angeles, CA 90015
Saturday, March 30, 2013 8:30 AM – 4:30 PM

Series Presented By:



Workshop Sponsored By:



MAURIELLO LAW FIRM,
APC



Advocates for the Environment
A non-profit law firm
and advocacy organization

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Schedule

9:00	Ursula Vosylius / Bill Bittner	Welcome
9:10	Bill Bittner, Loyola Law School	Finding the Law – Legal Research for Activists
9:40	Victor J. Otten, Otten & Joyce LLP	CEQA Overview
10:20		Break
10:30	Jefferey L. Caufield, Caufield & James LLP	CEQA MND and EIR Requirements
11:05	Jennifer Robinson, Sierra Club	Sierra Club Campaign Planning Matrix
11:40		Break
11:50	Dean Wallraff, Advocates for the Environment	CEQA Commenting Strategies
12:30		Get Lunch
12:45	Ursula Vosylius + Speakers	Q & A with Presenters
1:30		Break
1:40	CEQA Presenters	CEQA Commenting Workshop
2:40		Break
2:50	Tom Mauriello, Mauriello Law Firm, APC	NEPA
3:10	Stefan Blasig	Brown Act
3:30	Victor J. Otten, Otten & Joyce, LLP	Public Records Act and FOIA
4:00		Networking and Snacks

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Speaker Biographies

William J. Bittner is a native of Sacramento, California. He grew up hiking and skiing in the Sierra Nevadas and has always enjoyed spending time in the outdoors. While an undergraduate at the University of Southern California, he spent his summers working for a general contractor building large-scale public works projects. His work in the construction industry got him interested in how the need for development can be weighed with the preservation of our State's natural resources. Bill is a 3L at Loyola Law School, president of the Environmental Law Society, and currently works part-time at the LA District Attorney's office where he assists the Environmental Crimes Division. He is also a member of Heal the Bay's Stream Team, where he spends the first Sunday of every month gathering water samples from the Malibu watershed.

Stefan Blasig, a native of Germany, has practiced law in California since 2001. He has litigated hazardous-waste clean-up claims on behalf of landowners and has counseled environmental activists in land-use disputes pursuant to the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA), and the Endangered Species Act.

Mr. Blasig resides in Laguna Hills, Orange County. He is an active member of the Conservation Legal Committee of the Sierra Club, Angeles Chapter, and has served as a panel attorney on the Legal Issues Team of the Surfrider Foundation. He also regularly volunteers for the Orange County Parks Administration and is an avid trail runner and hiker.

Jefferey L. Caufield has broad experience in environmental counseling and in environmental and toxic tort litigation. He has advised major oil companies and various businesses in environmental regulatory matters, and he regularly counsels clients on the environmental implications of the purchase or sale of real property. He has litigated and tried numerous environmental cases, and he has extensive experience in managing large, complex environmental cases and conducting depositions and discovery. He has conducted settlements with the United States Environmental Protection Agency, and has been engaged in complex Superfund litigation and private cost recovery actions under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA") and various state and environmental laws. He has also appeared before numerous state and local environmental agencies.

Jeff's legal experience includes working for the State of California, Department of Fish and Game Legal Advisors Office and the United States Department of Interior, Regional Solicitors Office where he provided legal advice on numerous land use and property contamination matters. He has also advised numerous public entities on a variety of land use and environmental matters, including the following: Mojave Water Agency, Three Valleys Water District, San Bernardino County Superintendent of Schools, Joshua Tree Water District, Chino Basin Water Conservation District; City of Colton, Highland, Yucaipa, Del Mar, Encinitas, El Cajon, Imperial Beach, La Mesa, and Coronado.

Jeff received his undergraduate degree from the University of California at Santa Barbara in 1990, and earned his law degree from University of the Pacific, McGeorge School of Law in 1993.

Thomas D. Mauriello has litigated environmental and land-use cases in state and federal courts throughout California under various California statutes, including the California Environmental Quality Act (CEQA), the California Endangered Species Act, the Planning and Zoning Law, the Integrated Waste Management Act, the Cameron-Unruh Beach, Park, Recreational, and Historical Facilities Bond Act of 1964, and the Air Toxic Hotspots Act; under various California common law claims such as the public trust doctrine, nuisance, trespass, and boundary issues under various state and local statutes and ordinances; and under various federal statutes such as the National Environmental Policy Act (NEPA), the Clean Water Act, the Endangered Species Act, the Federal Highways Act, and the Administrative Procedure Act.

Mr. Mauriello's environmental and land use practice has focused largely though not exclusively on the representation of environmental and citizens' groups, using citizen suits and judicial review of agency actions as a tool to enforce our environmental laws and to strive for preservation and wise stewardship of the natural and human environment. A wide range of clients have worked with Mr. Mauriello, including the Sierra Club, Center for Biological Diversity, Preserve South Bay, Spirit of the Sage Council, San Francisco Bay Institute, Environmental Health Coalition, and Save Our Forests and Ranchlands. He currently is a member of the Conservation Legal Committee of the Angeles Chapter of the Sierra Club, as well as a Legal Co-Chair for that Chapter. Mr. Mauriello also has published articles on environmental law issues and from 2001 through 2003, he lectured in environmental and land use litigation at California State University, East Bay (formerly Cal State University, Hayward).

Victor J. Otten has been a licensed attorney for over 20 years and is the senior partner at Otten & Joyce, LLP. Mr. Otten's practice now focuses on complex civil litigation, real estate law, environmental and land use law, business law, equine law, criminal defense, and related matters.

Prior to forming Otten & Joyce, LLP, Mr. Otten worked for Carmen "Nuch" Trutanich where his practice focused primarily on environmental litigation. Mr. Otten then went on to work for Trutanich-Michel LLP as Special Counsel from 2000 through May 2009, where he handled complex business, environmental, real estate, and landlord/tenant matters in state and federal courts from inception through trial and appeal. During this time, Mr. Otten worked on several high profile cases and clients which gained the firm media attention. He obtained a published appellate opinion in the case Michel v. Moore and Associates Inc., Case No. B183165, addressing disclosures in the real estate context and was selected as an Environmental Super Lawyer, Southern California Super Lawyers Magazine, in 2009.

Mr. Otten resides in Palos Verdes California where he enjoys surfing and riding his two mules Jessie and Ruby. He is an active member of the equestrian community and currently writes for the Equestrian Times and Mules and More Magazine.

Jennifer Robinson is a Conservation Program Coordinator for the Sierra Club Angeles Chapter. She worked as the wildlife specialist for Pasadena Humane Society and SPCA, and served as Environmental Coordinator for Middlebury College in Middlebury, VT. Her current projects include the Montebello Hills Task Force, land protection, water conservation efforts and zero waste projects. When not working to protect the environment, she is busy enjoying and

exploring the adventures of mothering twin toddlers.

Ursula Vosylius is a Senior Alliance Manager at Amgen Inc., one of the world's largest independent biotech companies, for over 10 years. She is responsible for leading research and development transition teams as well as managing relationships with partner companies in support of Amgen's global licensing efforts. She previously served as a contract attorney for Jones Day in Los Angeles and practiced both U.S. and international intellectual property law in a variety of fields for the firms of Ashen & Lippman in Montrose, CA and Tope-McKay & Associates in Malibu, CA.

Ms. Vosylius received her J.D. from Pepperdine University in 2001 and bachelor's degree from Rutgers University with an emphasis in Molecular Genetics in 1994. She is also an alumna of the Graduate Science Careers scholarship program at the Robert Wood Johnson University of Medicine and Dentistry in New Jersey. Additionally, she received certificates in Directorship and Corporate Governance from the Anderson School at UCLA as well as in Alternative Dispute Resolution from Pepperdine's Straus Institute for Dispute Resolution. Prior to practicing law, Ms. Vosylius engaged in over 10 years of research and drug development, including protein chemistry research resulting in two patents and a publication in Protein Science. Ms. Vosylius is an active member of the Legal Committee of the Sierra Club Angeles Chapter and volunteers for Habitat for Humanity on occasion.

Dean Wallraff is an attorney and Executive Director of Advocates for the Environment, a public-interest law firm and environmental advocacy organization.. He represents public-interest groups such as the Sierra Club, Center for Biological Diversity, and the California Native Plant Society in environmental, land-use, water-law and open-government litigation. He is currently representing the Sierra Club in a lawsuit in the California Supreme Court to obtain Orange County's GIS land-parcel data under the Public Records Act. His other practice areas include formation of non-profits and land conservancies, tree law, and trail-access law. He is a Vice Chair of the Sierra Club Angeles Chapter Legal Committee and a former Chapter Conservation Chair.

Dean is a graduate of the University of Arizona and Loyola Law School. He lives in Shadow Hills with his wife Benita and two large Kuvasz dogs.

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Websites and Books

Workshop Web Site

PowerPoints and recordings should be available on the following Web site by mid-April:

- www.AEnv.org/CEQAWorkshop

Online CEQA Resources

- State CEQA Page: <http://ceres.ca.gov/ceqa/> - has links to
 - Statute – California Public Resources Code sections 21000-21189.3
 - Guidelines – Regulations – 14. California Code of Regulations sections 15000-15387 plus Appendices A through L
 - Case Law by year
- State CEQANet page – database of CEQA filings - <http://www.ceqanet.ca.gov/>

CEQA and NEPA Books

- *Community Guide to CEQA* (2010) – Planning and Conservation League, \$45.
 - Order from the PCL Web site at <http://www.pclfoundation.org/events/ceqaguide.html>
 - The best short overview for laypeople
- Guide to CEQA, (11th ed. 2006), Remy, Thomas, Moose, Manley
 - (Formerly) available from Solano Press, www.solano.com
- Practice under the California Environmental Quality Act (2012), Continuing Education of the Bar (www.CEB.com), \$345.
 - Probably the best overall treatise on CEQA. Updated annually, last updated in March, 2012.
 - *The NEPA Book* (2nd ed. 2001), Bass, Herson and Bogdan, Solano Pres

Public Records Act (PRA) and Freedom of Information Act (FOIA)

- *The Right to Know, a Guide to Public Access and Media Law*, Chadwick and Myers, 2007, California Newspaper Publishers Association (CNPA), www.cnpa.com
- *Public Records and Private Information in California*, Terry Franke, 2012, Californians Aware, www.calaware.org
- California Public Records Access Project, www.calpubrec.org

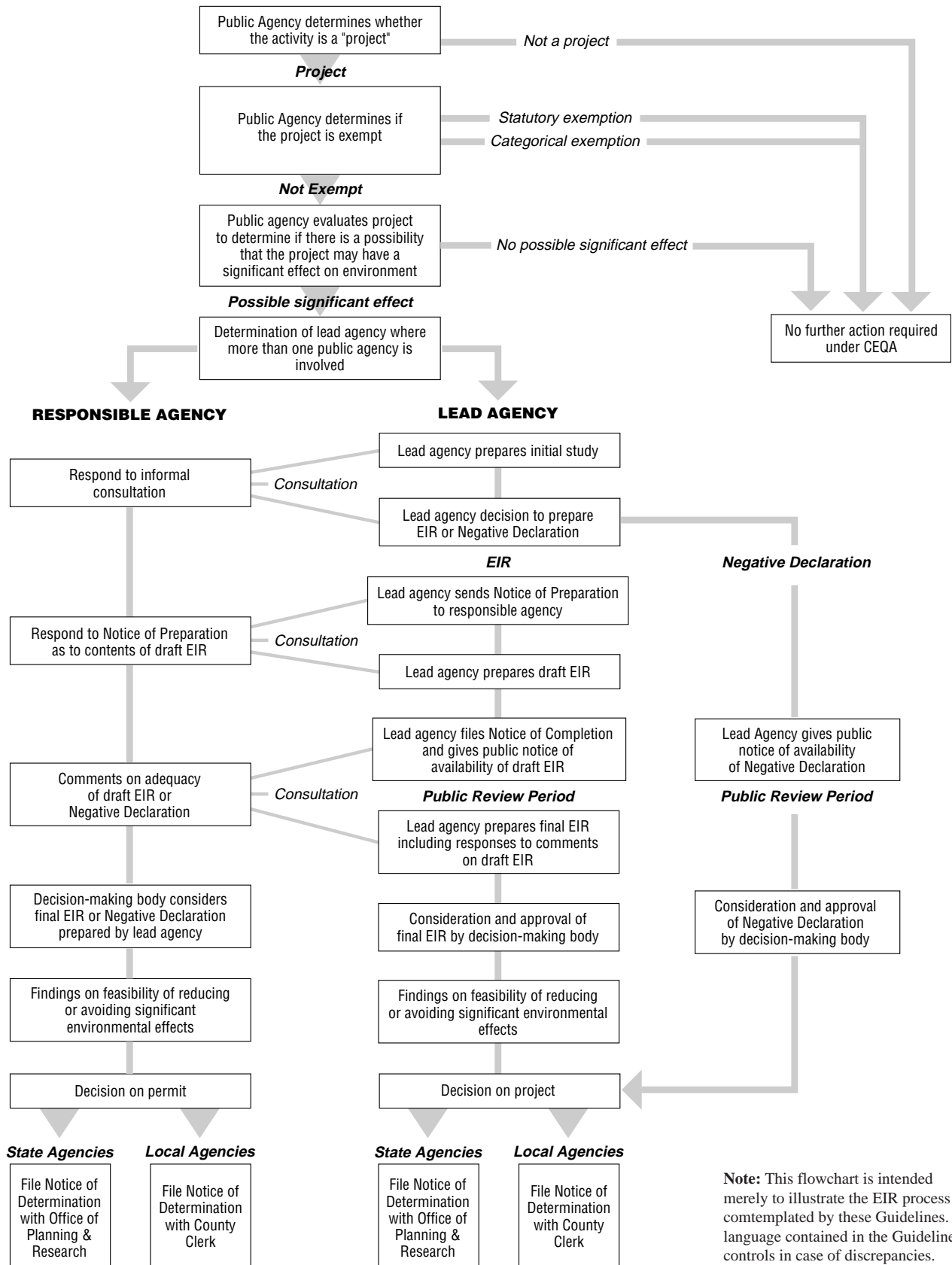
Brown Act and Other Open Meetings Laws

- Open Meetings in California, Terry Franke, 2005, Californians Aware, www.calaware.org

CEQA and NEPA Acronyms and Initialisms

CEQA Term	CEQA Abbreviation	NEPA Term	NEPA Abbreviation
California Environmental Quality Act	CEQA	National Environmental Policy Act	NEPA
Scoping		Scoping	
Project		Federal Action	
Categorical Exemption		Categorical Exclusion	
Notice of Exemption	NOE		
Initial Study	IS	Environmental Assessment	EA
		Public Notice of Availability (of EA)	
(Mitigated) Negative Declaration	(M)ND	Finding of No Significant Impact	FONSI
Notice of Preparation	NOP		
Environmental Impact Report	EIR	Environmental Impact Statement	EIS
Notice of Completion	NOC	Public Notice of Availability (EIS)	

Appendix A CEQA PROCESS FLOW CHART



Note: This flowchart is intended merely to illustrate the EIR process contemplated by these Guidelines. The language contained in the Guidelines controls in case of discrepancies.

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Sponsor Profiles

Four law firms contributed monetarily so that this workshop could be free of charge to participants:

- Advocates for the Environment
- Mauriello Law Firm, APC
- Michel & Associates, P.C.
- Otten & Joyce, LLP

Please take a moment to peruse materials describing these firms on the following pages.



Mauriello Law Firm, APC

The Mauriello Law Firm, APC represents clients in business, consumer, investment, environmental, and other civil litigation in state and federal courts and arbitration forums. Founded in 1996 by attorney Thomas D. Mauriello, the Firm's primary office is in San Clemente, with an additional office in San Francisco.

The Firm's primary practice areas are representing consumers in class action cases involving fraudulent or deceptive services or products, and representing investors in investment and securities disputes with brokerage firms and investments advisors. The Firm also regularly represents individuals and businesses in commercial litigation, shareholder derivative actions, whistleblower and False Claims Act ("qui tam") cases, administrative law, appeals, and public interest environmental and land use law.

Mr. Mauriello is a member of the State Bars of California, New Jersey and Pennsylvania and several national, state, and local bar associations. In addition to assisting clients, Mr. Mauriello regularly volunteers his time and expertise with various pro bono activities and serves on several committees of the Orange County Bar Association and serves as Co-Chair of the Legal Committee of the Sierra Club Angeles Chapter.

More information is available at www.maurlaw.com.

Otten & Joyce, LLP

Otten & Joyce, LLP is a premier boutique law firm offering a broad range of legal services to both businesses and individuals. The firm prides itself in providing clients continuous accessibility to its attorneys and staff. This “open door” policy fosters a close attorney-client relationship where the clients always feel secure that their case is as important to the firm as it is to them.

The firm’s senior partner, Victor Otten, was selected as a Super Lawyer in Environmental Law, by Southern California Super Lawyers Magazine, in 2009. His partner, Brigid Joyce, was selected for inclusion in Super Lawyers - Rising Stars, 2007 and 2008 Editions, which include the recognition of less than 2.5% of attorneys in California.

The firm’s principals have achieved significant success in their legal careers. For example, they obtained a published appellate opinion in the case Michel v. Palos Verdes Network Group, Inc. (2007) 156 Cal.App.4th 756 which addressed disclosures in the real estate context. This case has been cited by numerous legal treatises and has resulted in two new California jury instructions based off its holding.

The firm’s principals have handled noteworthy cases and represented high profile clients over the years. It is not uncommon for a case that the firm is working on to achieve media attention.

Otten & Joyce, LLP also believes in giving back to the community by providing pro bono legal services. This includes serving on the legal committee for the Angeles Chapter of the Sierra Club and representing indigent tenants who are being unlawfully evicted by their landlords.

Otten & Joyce, LLP welcomes the opportunity to speak with prospective clients and explore how the firm can handle their legal matters. To that end, prospective clients are not charged for an initial consultation.

More information can be found at: www.ottenandjoyce.com

Advocates for the Environment

Advocates for the Environment (www.aenv.org) is a public-interest law firm focused primarily on litigation on behalf of public-interest clients in the following areas:

- Environmental
- Land-Use
- Water Law
- Open Government Law: Public Records Act, FOIA, Brown Act



MICHEL & ASSOCIATES, P.C.
A t t o r n e y s a t L a w
Firearms - Environmental - Land Use - Employment Law
Civil Litigation - Criminal Defense
562-216-4444 - www.michellawyers.com

Increasingly complex environmental laws and challenging technical considerations confront practically every company doing business today. Michel & Associates, P.C. provides quality legal and technical services to those clients facing environmental issues in any regulatory or adversarial context.

Michel & Associates' attorneys represent small, medium, and Fortune 500-sized companies, as well as developers, oil and gas development companies, natural resource management advocacy groups, and individuals. Michel & Associates has assembled a unique team of individuals and consultants to achieve our clients' goals. Our attorneys, support staff, engineers, scientists, experts and public relations advisors provide support and expertise at every stage and on every level.

We counsel clients to develop and implement best-management practices and promote regulatory compliance to prevent environmentally based conflicts from arising in the first place. When conflicts are unavoidable, we focus on resolving environmentally based conflicts responsibly and efficiently.

We often handle Brownfields projects and work with clients on contaminated property characterization and remediation. Michel & Associates, P.C.'s attorneys and experts evaluate the nature and extent of site contamination, estimate remediation costs, and define the potential development value and potential investment return within the chosen legal strategy.

Our attorneys also have extensive experience with environmental legislation such as CERCLA, RCRA, CEQA, NEPA, Proposition 65, the Clean Air and Clean Water Acts, and the Endangered Species Act. We are familiar with the application of those laws in the regulatory context, in multifaceted environmental litigation, and in prosecuting or defending against civil and criminal charges alleging environmental violations.

Michel & Associates, P.C.'s attorneys have handled many environmental matters of national prominence, including the Exxon Valdez oil spill, the follow-up Chromium VI cases made famous by the "Erin Brokovich" movie, the OII Superfund Site, the Denova Environmental Superfund Site, the Santa Margarita River adjudication, and Times Beach / Syntech Chemical dioxin cost-allocation action.

Michel & Associates has a long history of experience counseling clients in resolving environmental regulatory compliance matters and litigation, and also in the increasingly interrelated land use legal practice area. Michel & Associates, P.C.'s attorneys represent private and public landholders and developers before city councils, county boards, the State Coastal Commission, California Department of Fish and Game Commission, and other local, state and federal administrative bodies. We assist our clients in obtaining permits and other entitlements including general plan amendments, specific plans, zone changes, tract maps and development agreements. We also protect and advance our clients' interests, including eminent domain concerns, by legislative advocacy before local, state and federal agencies.

Michel & Associates, P.C. has extensive experience in both environmental and land use issues. Our goal is to use our experience and knowledge to help our clients achieve their goals at a reasonable cost and in a manner consistent with good business practices. We use our experience and knowledge to help our clients plan proactively, identify their options, make wise choices, and achieve their objectives.