

BPC EXPERT BRIEFING**CEQA Update 2016: Supreme Court Decisions & Hot Topics Review**

October 5, 2016

11:00 a.m. – 1:45 p.m.

Wendel, Rosen, Black & Dean LLP
1111 Broadway, 19th Floor, Oakland, CA

Moderator

- **Christian Marsh**, *Partner, Downey Brand LLP*

Panelists

- **Arthur F. Coon**, *Shareholder, Miller Starr Regalia*
- **Kathryn L. Oehlschlager**, *Partner, Downey Brand LLP*
- **Lisabeth D. Rothman**, *Partner, Briscoe Ivester & Bazel LLP*
- **Todd A. Williams**, *Partner, Wendel, Rosen, Black & Dean LLP*

11:00 – 11:05: **Welcome and Introductions**
John Coleman, *CEO, Bay Planning Coalition*

11:05 – 12:15: **Supreme Court Decisions & Significant CEQA Developments**

- Supreme Court Cases
- Climate Change & Energy

12:15 – 12:30: **Lunch**

12:30 – 1:30: **Other CEQA Developments & Hot Topics**

- Scope of CEQA
- CEQA Exemptions
- Negative Declaration Case Summary
- Environmental Impact Reports

1:30 – 1:45: **Audience Discussion and Q&A**

An application requesting 2.00 general MCLE credit for this activity is pending for approval by the State Bar of California. Certificates of Attendance will be sent upon request once approval is received. To ensure MCLE Credit verification, please also sign-in on the Record of Attendance form available at check-in.

Supreme Court Decisions & Significant CEQA Developments

Supreme Court Cases

- *CBIA v. BAAQMD*
- *Friends of the College of San Mateo Gardens v. San Mateo County Community College District*
- *Sierra Club v. City of Fresno*

Climate Change and Energy

- *Center for Biological Diversity v. Dept. of Fish & Wildlife*
- *Ukiah Citizens for Safety First v. City of Ukiah*
- *Bay Area Citizens v. ABAG*
- *Cleveland National Forest Found. V. San Diego Assoc. of Governments*
- *Spring Valley Lake Association v. City of Victorville*

Other CEQA Developments & Hot Topics

Scope of CEQA

- *Union of Medical Marijuana Patients, Inc. v. City of Upland*
- *Delaware Tetra Technologies v. County of San Bernardino*

CEQA Exemptions

- *Berkeley Hillside Preservation v. City of Berkeley*
- *Citizens for Environmental Responsibility v. State ex rel. 14th District Agricultural Association*
- *Walters v. City of Redondo Beach*

Negative Declaration Case Summary

- *Preserve Poway v. City of Poway*
- *Joshua Tree Downtown Business Alliance v. County of San Bernardino*
- *Coastal Hills Rural Preservation v. County of Sonoma*
- *Friends of Willow Glen Trestle v. City of San Jose*

Environmental Impact Reports

- *North County Advocates v. City of Carlsbad*
- *SF Baykeeper, Inc. v. California State Lands Commission*
- *North Coast Rivers v. Kawamura*
- *Center for Biological Diversity v. County of San Bernardino*

Download case summaries at: <http://tinyurl.com/ceqaupdate>

SPEAKER BIOGRAPHIES



Arthur F. Coon – Shareholder, Miller Starr Regalia

As the Co-Chair of Miller Starr Regalia's Land Use Practice Group and Chair of its Appellate Practice Group, Art Coon guides clients through a broad range of real property, land use and environmental matters.

Art has distinguished himself as a litigator at the trial and appellate levels of both federal and state courts, including an appearance as counsel of record before the U.S. Supreme Court. His areas of expertise include land use, environmental law, the law of public agencies, extraordinary writs, and the California Environmental Quality Act (CEQA). Art also counsels and advocates for clients who have matters in front of administrative bodies.

In receiving a J.D. from the University of California, Davis School of Law in 1986, Art was awarded the Order of the Coif, served as a Law Review editor, was a member of the Trial Practice Honors Board, and received American Jurisprudence Awards in Conflict of Laws and Commercial Paper. He earned his bachelor's degree from the University of Southern California in 1982.

He has written dozens of articles for law reviews, legal periodicals, and other publications, as well as authoring the chapters "CEQA" and "Subdivisions, Land Use Planning, and Approvals" in *Miller & Starr, California Real Estate*, Fourth Edition.

Art Coon has received the following recognitions: Martindale-Hubbell – AV Preeminent Rated (2002 – 2016), *Super Lawyers* Northern California (2006 – 2016), *Best Lawyers* – Land Use & Zoning Law (2012 – 2016), *Best Lawyers* – Oakland Land Use and Zoning Law "Lawyer of the Year" (2014).



Christian Marsh – Partner, Downey Brand LLP

Christian Marsh is a partner in the San Francisco office of Downey Brand LLP. He advises public and private clients on natural resource, energy, and land use matters involving water rights, the public trust doctrine, endangered species, wetlands, California planning and zoning law, and NEPA and CEQA review.

Among a variety of projects, he has entitled and permitted large-scale residential, commercial, and mixed-use real estate developments, ground and surface water supply projects, renewable energy and oil production and transmission facilities, port and waterfront developments, and mining projects.

Christian also conducts trial and appellate-level litigation in each of these areas. He successfully defended the county as its lead counsel in the six appeals challenging the Cadiz Valley Water Conservation, Storage, and Recovery Project and previously represented the prevailing parties in two successive CEQA cases before the California Supreme Court, *Save the Plastic Bag Coalition v. City of Manhattan Beach* and *Stockton Citizens for Sensible Planning v. City of Stockton*. Before practicing law, Christian served as special assistant in the U.S. Department of the Interior, where he advised the Deputy Secretary and the Assistant Secretary for Water & Science on endangered species and water policies.



Kathryn L. Oehlschlager – Partner, Downey Brand LLP

With more than a decade of experience in environmental law, Kathryn Oehlschlager has built a robust practice spanning environmental and land use compliance counselling, 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 California Environmental Quality Act (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. As a compliance counsellor, 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.



Lisabeth D. Rothman – Partner, Briscoe Ivester & Bazel LLP

Lisabeth Rothman is a partner at Briscoe Ivester & Bazel LLP where her practice focuses on environmental and land use law with a special emphasis on the California Environmental Quality Act (CEQA). Liz has represented public agencies and private entities including residential, commercial, and industrial developers, energy companies, and business organizations in entitlement, administrative, litigation, and appellate proceedings in state and federal courts. Liz has frequently lectured and written about CEQA and water issues.

With more than 30 years of administrative, litigation and appellate experience, Liz has expertise in complex and cutting-edge issues under CEQA, including compliance, mitigation, litigation and settlement. Her practice also focuses on CEQA's treatment of water issues. Liz has represented clients on issues involving water supply, water rights, the Clean Water Act, and California's Porter-Cologne Water Quality Control Act, and has advised and represented public agencies on CEQA issues for major public infrastructure water projects. Her land use experience includes planning and zoning, the Subdivision Map Act, conditional use permits, development agreements, rezoning, general plan amendments, specific plans, Save Open Space and Agricultural Resources initiatives, referenda challenging land use approvals, Local Agency Formation Commission issues, Coastal Act issues, exactions and regulatory takings, and other development conditions.



Todd A. Williams – Partner, Wendel, Rosen, Black & Dean LLP

Todd Williams is a partner at Wendel Rosen and Chair of its Land Use Practice Group. Todd represents clients in a broad spectrum of land use, real estate and environmental matters concerning both administrative proceedings and land use litigation. Todd works with public and private clients, including landowners and developers of residential, infill, commercial, mixed use and industrial projects, as well as local agencies, on matters concerning property entitlement processing and local government approvals; CEQA litigation and compliance; planning and zoning law advice; and real property litigation.

Todd has appeared before trial and appellate courts on matters regarding CEQA, the State Planning and Zoning Law, the Subdivision Map Act, local zoning laws, historic preservation, the Coastal Act, and the Williamson Act among others. Todd is a frequent speaker and writer on land use issues, with a particular emphasis on CEQA. He has been selected for inclusion in Northern California's *Super Lawyers* magazine since 2010.

Todd received his J.D. from the University of California, Hastings College of the Law where he was an editor for the Hastings Law Journal. During law school, he served as an extern for the Hon. Marilyn Hall Patel in the U.S. District Court for the Northern District of California. He earned his bachelor's degree from UCLA. Prior to becoming a lawyer, Todd worked as a sports writer covering college football and basketball, and the 1994 World Cup.

UPCOMING BPC EVENTS

BPC Expert Briefing: Earthquake Risks & Goods Movement in the Bay Area

Tuesday, October 18, 11:00 am – 1:30 pm
San Francisco International Airport

BPC Workshop: Dredging & Beneficial Reuse

Wednesday, November 9, 9:30 am – 12:30 pm
Port of Oakland

BPC Annual Meeting & Luncheon

Friday, December 9, 11:00 am – 2:00 pm
St. Francis Yacht Club, San Francisco

Registration and information available at: bayplanningcoalition.org/events/

BPC MEMBER COMMITTEES

Dredging & Beneficial Reuse
Legislative & Policy
Marinas & Boatyards
Membership
Organizational Development
Sustainable Waterfronts
Water, Energy & Infrastructure

Please contact us if you are interested in participating. Committees are a great way to get more involved in our activities and advocacy.

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