MusickPeeler



Environmental, Land & Resources

The attorneys in Musick Peeler's Environmental, Land and Resources group are among the most experienced and accomplished environmental and public law practitioners in California and the United States.

Our lawyers have been in the forefront of environmental, land use, workplace safety and public law for nearly 40 years, having gained unparalleled experience representing both public and private clients on a wide-range of in-house, regulatory, administrative, litigation, appellate, civil and criminal matters, at all levels of government, including in local, state and federal forums and courts. In addition to providing insightful counsel to their clients, our attorneys have the rare distinction of handling these matters from the administrative process through litigation, from initial investigation, to hearing or trial, and through the appellate process. It would be difficult to find any other group of lawyers with more breadth and depth of hands-on, real-world regulatory and litigation experience and success in the environmental and public law arena.

We represent clients in the public, non-profit and private sectors, including, among others, municipalities, counties, schools and school districts, water districts, public utilities, sanitation districts, joint power authorities, publicly-owned treatment works (POTWs), groundwater management and conservation districts, special districts, universities and colleges, energy companies, including renewable and non-renewable sources, farming and agricultural interests, including food processing facilities, wineries and commercial nurseries, real estate interests and developers, manufacturing and other commercial facilities and trade associations.

In working with our public, non-profit and private sector clients to achieve their goals, our Group's attorneys have successfully recovered millions of dollars in costs and obtained required cleanups from responsible parties, including multi-national energy companies, under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund), and related laws, for our clients' contaminated properties and groundwater supplies. We have successfully defended our clients in criminal, civil and administrative enforcement actions against allegations that they have violated various local, state and federal environmental and public health and welfare laws, including those involving hazardous waste and materials, soil, air and water pollution, groundwater management, asbestos-containing materials (ACMs), workplace safety (OSHA), oil spills and ocean dumping, underground storage tanks, land use matters, including the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), unfair business and consumer protection practices, community right-to-know (Proposition 65), endangered and protected species, including migratory birds, and indoor air quality ("sick" buildings).

Our experience covers all aspects of environmental, planning, zoning, land use, health and safety and public law, including, more specifically, the following:

- Air pollution, including toxic air contaminants, asbestos-containing materials, diesel particulates and fuels, after-market vehicle parts and emission control devices, climate change and greenhouse gases (GHG), truck and bus regulations, fuels, vapor-recovery systems, baghouses, refrigerants and ozone-depleting chemicals, missing data substitution, nuisance abatement and related matters under the federal Clean Air Act and regulations enacted by the California Air Resources Board (CARB) and local air pollution control districts.

Related Professionals

E. Garrett Barlow

William W. Carter

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Steven J. Elie

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Jane Ellison Usher

Alan J. Zuckerman

Related Practice Groups

Construction

Oil & Gas / Energy

Real Estate

Water Law

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- Hazardous waste and material violations, including those involving storage, disposal, treatment, transportation, reporting and business plans pursuant to the California Environmental Reporting System (CERS), under the federal Resource Conservation and Recovery Act (RCRA), California Hazardous Waste Control Act (HWCA), and the federal Hazardous Material Transportation Act (HMTA), and enforced by the United States Environmental Protection Agency (USEPA), California Department of Toxic Substances Control (DTSC), California Highway Patrol (CHP), California Office of Emergency Services (OES), United States Department of Transportation (USDOT), Federal Motor Carrier Administration (FMC), Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), federal Pipeline and Hazardous Materials Safety Administration (PHMSA) and local Certified Unified Program Agencies (CUPAs).
- Toxic and chemical substances regulated under the federal Toxic Substances Control Act (TSCA), electronic, universal and recycled wastes, medical and radiological wastes, and pesticides governed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and enforced or investigated by various local, state and federal agencies, including agricultural commissions, fire departments and the United States Chemical Safety Board.
- Water pollution, including surface and groundwater discharges, storm water management, industrial and municipal wastewater, pretreatment and effluent discharges, underground storage tanks (USTs), dredge and fill, wetlands, oil spills, vessel discharges and ocean dumping, in violation of the federal Clean Water Act (CWA), Oil Pollution Act of 1990, Ocean Dumping Act, Rivers and Harbors Act, Marine Protection, Research and Sanctuaries Act (MPRSA), California Porter-Cologne Water Quality Control Act (Water Code), and California Fish and Game and Government Codes, and enforced by the United States Coast Guard, United States Army Corps of Engineers, National Transportation Safety Board (NTSB), California State Water Resources Control Board and Regional Water Quality Control Boards, California Department of Fish and Wildlife, including the Office of Spill Prevention and Response (OSPR), and local POTWs.
- Natural resources protection violations, including those involving endangered and protected species (both flora and fauna), migratory birds, restricted fisheries and seafood, tribal lands, oak trees, grading, and archeological and cultural artifacts, in violation of the federal Endangered Species Act, Migratory Bird Treaty Act, Convention on International Trade in Endangered Species (CITES), Archaeological Resources Protection Act (ARPA) and Native American Graves Protection and Repatriation Act (NAGPRA), and enforced by the United States Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), United States National Park Service, United States Forest Service, Bureau of Indian Affairs and United States Customs and Border Protection.
- Land use planning, development and zoning, including obtaining and defending challenges to project entitlements at all levels of local, county, district, and state government, and completing all associated environmental review under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA).
- Investigation and remediation of contaminated soils and groundwater, including brownfields and regional groundwater basins, due diligence and cost recovery actions involving responsible parties (RPs) and potentially-responsible parties (PRPs), under CERCLA/Superfund and analogous state laws as well as common law torts such as nuisance, negligence and trespass.
- Community “right-to-know” laws, such as California’s Proposition 65 and the federal Emergency Planning and Community Right-to-Know Act (EPCRA),

including actions involving failure to post required notices and contamination of drinking water supplies.

- Workplace safety threats, hazards and serious concealed dangers, in violation of state and federal occupational safety laws, including California Occupational Safety and Health Act and California Corporate Criminal Liability Act, and enforced by Cal-OSHA.
- Threats to public health and safety, including contaminated foods, drugs and medical equipment (disinfectants), dietary supplements, food-borne illnesses, and mislabeled products, in violation of the federal Food and Drug Act and California Sherman Food, Drug, and Cosmetic Law.
- Unfair business practices and consumer protection violations, enforced under California's Unfair Competition Law and False Advertising Act (Business and Professions Code section 17200 *et seq*.).
- False statements and data in required regulatory reports and recordkeeping, including in sampling, laboratory and analytical documents, in violation of state and federal laws, including the federal False Claims Act, obstruction of justice and making false statements or omissions to the federal government.
- Qui tam (whistleblower) actions.
- Governance of local legislative bodies, including the Ralph M. Brown Act (open and noticed meetings), California Public Record Act requests, CEQA, California Fair Political Practices Commission (FPPC) and related transactional, bidding, procurement, labor/employment, budgetary, transparency and ethics matters.
- Internal investigations and enforcement actions, including administrative, civil and criminal (local, state and federal).

The Environmental and Public Law Practice Group works closely with the Firm's Water Law, Real Estate, and Litigation Groups to provide our clients with a full-range of subject matter expertise in these highly-technical and overlapping areas.

Land Use

Musick Peeler's Land Use provides comprehensive expertise in all aspects of planning, zoning, environmental, compliance, and related land use government permits and approvals. The Group's attorneys counsel clients through property acquisition, due diligence, remediation, California Environmental Quality Act/National Environmental Policy Act compliance, obtaining local, state and federal land use entitlements and related agency permissions, litigation arising out of these permissions, and enforcement actions. The goal is to ensure not only that our clients are in compliance with their land use legal obligations, but also that they are at all times aware of the complex universe of regulatory measures and can make cogent business and operational decisions based on that timely knowledge.

Our Land Use attorneys have extensive experience with the regulatory processes of cities, counties, the State, and the federal government, including through authoring and defending land use ordinances and actions by the regulators themselves. We have worked to draft, enforce, defend and challenge laws on such diverse topics as local zoning amendments, community plans, medical marijuana, billboards, group homes, homelessness, short-term rentals, historic preservation, hazardous materials and a wide variety of environmental protections. The subject matters on which we have written, represented and litigated, both for private clients and for government agencies, range in project size and complexity, from the entitlement process for extraordinary single family homes, to charter schools and universities, towering hotels, sports and

entertainment complexes, television and motion picture production locations, and water storage, conveyance, and wastewater facilities. We are fully proficient regarding the land use impacts of past and proposed development on the environment, including threats or contamination affecting the natural resources of water, soil, air, wetlands, flora, fauna and endangered species.

The Land Use practice has been recognized and awarded for its expertise in land use planning, zoning, and environmental matters. Our attorneys have taught these topics to California law students as well as to other industry professionals. We work in conjunction with the firm's Real Estate, Water, and Environmental & Public Law Groups to provide the full range of land use answers and resources to our clients. We advise, provide representation through every step of the permitting process, and litigate to defend our clients' actions or to challenge the missteps of others.

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