



Diane C. De Felice
Shareholder

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Los Angeles, California

Diane De Felice effectively combines her transactional real estate planning, land use and environmental law expertise with proven litigation skills to varying development scales, from a few units to large infrastructure projects. With more than 25 years of experience, her proficiency helps developers, investors, cities and other private sector clients navigate public agencies' administrative processes to streamline land use and planning. Diane has industry-leading experience with the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA) and Subdivision Map Act as well as the Coastal Act.

Diane's successful record includes lead counsel positions on master-planned communities, complex groundwater matters, and development involving specialized environmental and regulatory practices—CEQA/NEPA, air quality, historic resources, endangered species, Local Agency Formation Commissions (LAFCO) and water, including water supply assessments and the Sustainable Groundwater Management Act (SGMA). Her ability to collaborate and integrate with the firm's on-site professional planners and water practice group allows her to provide clients with in-house streamlined expertise and counsel.

Diane's work includes consulting with public entities—including port authorities and water and fire districts—regarding compliance issues, including the Brown Act. Diane's experience is a valuable asset in assisting to get projects built, as well as defending them when challenged in court. Her most recent success includes the Cadiz Valley Conservation, Recovery and Storage Project, a Southern California water supply and public-private partnership (P3) project as the lead counsel responsible for obtaining and successfully defending six lawsuit challenges to the project's entitlements. Clients seek out Diane for her strategic approach that balances development economics and legal issues, and her ability to deliver a project to "shovel-ready" condition. Before going into law, Diane leased and sold commercial real estate.

Practices

Energy & Natural Resources, Climate Change, NEPA/CEQA, Litigation, Real Estate, Land Use

Land Use

Diane provides clients with a full range of land use, subdivision and entitlement expertise that real estate developers need to ensure that their projects are completed as smoothly and expeditiously as possible.

- On behalf of a regional water provider, assisted in land exchange which included clearing title issues for development of replacement reservoir.
- On behalf of a national homebuilder, obtained approval of the Water Supply Assessment, final Environmental Impact Report, General Plan Amendments and Specific Plan for development of a 1,500 acre-property in Southern California proposed to include 5,400 residential units and commercial uses.
- On behalf of a Los Angeles County nonprofit, obtaining approvals under a conditional use permit which entails environmental review and reconciling title issues.

CEQA/NEPA, Environmental

Diane brings widespread understanding of environmental regulations and knowledge of state and federal laws

resulting in her clients' success in development in California.

- Was responsible for processing and obtaining the certification of the EIR for the Cadiz Valley Conservation, Recovery and Storage Project, a large water supply infrastructure project. This public-private partnership (P3) is designed to put 50,000 acre-feet per year to beneficial use over 50 years by conserving water presently lost to evaporation and delivering it to the Colorado River Aqueduct via a 43-mile pipeline to be constructed within a disturbed railroad right-of-way. In a second phase, surplus water will be imported and stored in the project's aquifer system until needed in future dry-years.
- On behalf of a national homebuilder, obtained approval of the final Environmental Impact Report, General Plan Amendments and Specific Plan, including Water Supply Assessment, for development of a 1,500 acre-property in Southern California proposed over 30 years to include 5,400 residential units and commercial uses, as well as defending subsequent challenges including CEQA.
- Provided NEPA, CEQA and land use compliance advice for project which included construction of a spring water bottling facility and pipelines in federal forest land.
- On behalf of a national homebuilder, obtained approval of the Final Subsequent Environmental Impact Report, for development over 10 years of a 1,900 acre-property in Northern California to include 1,000 residential units of an active adult community.
- Representation before the California State Water Resources Control Board (SWRCB), regarding renewal of water right permits for a USBR-owned reservoir and before the National Marine Fisheries Service with respect to Endangered Species Act compliance for listed steelhead. Representation included coordination with USBR, who holds the water right permits, and other project members holding water right entitlements in the reservoir for environmental compliance with CEQA, development of a biological assessment and biological opinion, and protection of downstream water rights interests.
- Represented client and obtained approval for the expansion of an existing food production and distribution facility in the Inland Empire, including successfully defending challenges under CEQA.
- Successfully defended the City of Long Beach against claims of unlawful delegation of police power, violation of Brown Act open meetings law and various provision of CEQA arising out of efforts by the Port of Long Beach to implement the Port's Clear Air and CleanTruck programs.

Litigation

As an experienced state and federal litigator, Diane's representation has included both general civil litigation and writ of mandate proceedings, through the California Courts of Appeal and the California Supreme Court.

Examples of Diane's experience and success include:

- Successfully defended the entitlements for the Cadiz Valley Conservation, Recovery and Storage Project, a Southern California water supply infrastructure project designed to put 50,000 acre-feet per year to beneficial use over 50 years by conserving water presently lost to evaporation and delivering it to the Colorado River Aqueduct via a 43-mile pipeline. Diane led the successful defense of the project at both trial and in the California Court of Appeal, which upheld the environmental review against all challenges brought by opposing parties in six lawsuits. In so doing, the Appellate Court also sustained the local management of groundwater and, in published opinions, endorsed the project's structure as a template for processing P3s under CEQA. (Center for Biological Diversity v. County of San Bernardino (2016) 247 Cal.App.4th 326, 332; Delaware Tetra Technologies v. County of San Bernardino (2016) 247 Cal.App.4th 352; Center for Biological Diversity v. County of San Bernardino (May 10, 2016, G051080) [nonpub. opn.]; Delaware Tetra Technologies, Inc. v. County of San Bernardino (May 10, 2016, G050881) [nonpub. opn.]; Delaware Tetra Technologies v. Santa Margarita Water District (May 10, 2016, G050869 [nonpub. opn.]); Delaware Tetra Technologies v. Santa Margarita Water District (May 10, 2016, G050864) [nonpub. opn].)
- On behalf of a national homebuilder, obtained approval and defended subsequent challenges of the final

Environmental Impact Report, General Plan Amendments and Specific Plan, as well as the Water Supply Assessment, for development of a 1,500 acre-property in Southern California proposed to include 5,400 residential units and commercial uses.

- Successfully defended CEQA challenge to spring water agreement in trial and appellate courts for a bottling facility and pipeline construction project in federal forest land.
- Successfully defended CEQA challenge to an 800,000 square foot food production and distribution facility in the Inland Empire.
- Successfully represented and resolved on behalf of a public agency its CEQA challenge to adjacent jurisdiction Mining Project.

Selected Published Opinions

- Center for Biological Diversity v. County of San Bernardino (2016) 247 Cal.App.4th 326
- Delaware Tetra Technologies, Inc. v. Santa Margarita Water District (2016) 247 Cal.App.4th 352
- Health First v. March Joint Powers Authority, (2009) 174 Cal.App.4th 1135
- Endangered Habitat League v. County of Orange, (2005) 131 Cal.App.4th 777
- San Ramon Valley Fire Protection District v. Contra Costa County, Employees' Retirement Association, (2004) 125 Cal.App.4th 343

Representative Matters

- Successfully represented Golden State Water Company (GSWC) before the honorable Amy Hogue resulting in the Los Angeles Superior Court upholding a longstanding interpretation of the Orange County Water District Act. The court held that recycled water produced within the geographical boundaries of the Santa Ana River watershed does not constitute a "supplemental source" for purposes of calculating the Basin Production Percentage, which is used to determine how much groundwater a producer may pump from the groundwater basin without paying the surcharge, or Basin Equity Assessment. The ruling holds significant implications for the nineteen groundwater producers including 13 cities, an investor owned water utility and five retail water districts that share and pump groundwater from the Orange County Groundwater Basin.
- Successfully defended action challenging the City of Long Beach's major clean air initiatives based on alleged violation of the Open Meeting Law, alleged improper delegation of police powers and alleged violations of the CEQA.
- On behalf of a national homebuilder, Brownstein obtained approval of the Water Supply Assessment, final Environmental Impact Report, General Plan Amendments and Specific Plan for development of a 1,500 acre-property in Southern California proposed to include 5,400 residential units and commercial uses, as well as defending subsequent challenges including CEQA.
- Successfully defended CEQA challenge to Spring Water agreement in trial and appellate courts. Provided NEPA, CEQA and land use compliance advice for project development including construction of bottling facility and construction of pipelines in federal forest land.
- Successfully defended CEQA challenge to 800,000 square foot warehouse/distribution center, in state and appellate courts. Provided land use and CEQA compliance advice for expansion facility.
- Land use and CEQA counsel for a 5,000 single-family residential and mixed use project in Inland Empire.
- Represented the District before the California State Water Resources Control Board (SWRCB), regarding renewal of water right permits for a USBR owned reservoir and before the National Marine Fisheries Service with respect to Endangered Species Act compliance for listed steelhead. Representation included coordination with USBR, who holds the water right permits, and other project members holding water right entitlements in the reservoir for environmental compliance with CEQA, development of a biological assessment and biological opinion, and protection of downstream water rights interests.
- Prepared and filed lis pendens as means to enforce purchase agreement of multi-million dollar properties.

Community

Pro Bono Liaison for Los Angeles office

Publications & Presentations

- Infrastructure Roadmap – State of Play and How to Plan, Speaker, Infrastructure Roadmap – State of Play and How to Plan, Gulf of Mexico Alliance Business Advisory Council , April 25, 2018
- California's Answer to its Housing Crisis, Author, *Multihousing Pro Magazine*, January 29, 2018
- CEQA Recent Subsequent Review Decisions ,
Speaker, 53rd Select Conference on Industry Litigation (SCIL), La Jolla, CA, November 11, 2017
- Affordable Housing in California, Author, *Urban Land*, Fall 2017
- CEQA News You Can Use - Vol. 2, Issue 2, *Brownstein Client Alert*, July 20, 2017
- California Dreaming of Net Zero ,
Author, *GreenHomeBuilder*, June 7, 2017
- CEQA News You Can Use - Vol. 1, Issue 2, *Brownstein Client Alert*, February 2, 2017
- CEQA News You Can Use - Vol. 1, Issue 1, *Brownstein Client Alert*, October 6, 2016
- 12th Annual Advanced Seminar on the California Environmental Quality Act,
Speaker, 12th Annual Advanced Seminar on the California Environmental Quality Act, Santa Monica, CA, September 16, 2016.
- A New Management Model For Calif. Groundwater Regulations, *Law360*, June 13, 2016

Education

- J.D., 1990, Pepperdine University School of Law
- B.A., 1984, University of California at Berkeley

Admissions

- California, 1990
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Central District of California
- U.S. District Court, Northern District of California

Recognition

Southern California Super Lawyers, Environmental, 2018-2019

California Super Lawyers, 2016

Membership

Bizfed Los Angeles County Business Federation

Sustainable Development Council, Urban Land Institute, 2015-2019

Leadership Council, Urban Land Institute – Los Angeles

American Bar Association, 1991-present

California Business Properties Association

California Building Industry Association Legal Action Committee

Commercial Real Estate Women (CREW) Los Angeles

Legal Action Network for Development Strategies (LANDS)/National Association of Home Builders

Los Angeles County Bar Association, Litigation, Environmental Law and Real Estate Sections

State Bar of California, Litigation and Real Estate Sections

