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- Southern California Association of Governments

Who Should Attend:

Attorneys, environmental professionals, governmental representatives, real estate professionals and corporate managers

Our Fifth Annual Comprehensive Workshop on

California Environmental Quality Act (CEQA)

New guidelines and and cases on compliance issues

September 25, 2009

Santa Monica, California

DoubleTree Guest Suites Santa Monica Hotel

Credits: CA MCLE 7.25 (call about others)
Quick when/where: 8:30 a.m., 1707 Fourth Street

California Environmental Quality Act (CEQA) Workshop

September 25, 2009 | Santa Monica, California
DoubleTree Guest Suites Santa Monica Hotel

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8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

James L. Arnone, Esq., Program Co-Chair
Latham & Watkins ~ Los Angeles, CA

Jan Chatten-Brown, Esq., Program Co-Chair
Chatten-Brown & Carstens ~ Santa Monica, CA

8:45 **New CEQA Guidelines On Climate Change: What They Say And What They Don't Say**

The Resource Agency's proposed new CEQA Guidelines for assessing global climate change; important omissions from the Guidelines; interplay with other agencies' public pronouncements on how to assess climate change in CEQA documents

Jan Chatten-Brown, Esq., Moderator

Kirk Miller, Esq., Deputy Secretary and General Counsel
California Natural Resources Agency ~ Sacramento, CA

Matthew Vespa, Esq., Senior Attorney, Climate Law Institute
Center for Biological Diversity ~ San Francisco, CA

Michael H. Zischke, Esq.
Cox Castle & Nicholson LLP ~ San Francisco, CA

9:45 **Fighting Climate Change Through Regional Land Use Planning**

SB 375's goals and role in implementing AB 32; planning organizations and their "Sustainable Communities Strategies"; Regional Targets Advisory Committee's report to the CARB; how that process interacts with CEQA assessments

James L. Arnone, Esq., Moderator

Hasan Ikhtrata, Executive Director
Southern California Association of Governments ~ Los Angeles, CA

Christopher H. Norton, Esq.
Latham & Watkins ~ Costa Mesa, CA

Bill Yeates, Esq.
Kenyon I Yeates LLP ~ Sacramento, CA

10:45 Break

11:00 **CEQA's Substantive Mandate: What is Truly Infeasible?**

What constitutes an "infeasible" mitigation measure and when economic infeasibility comes into play

Douglas Carstens, Esq.
Chatten-Brown & Carstens ~ Santa Monica, CA

Michelle Ouellette, Esq.
Best Best & Krieger LLP ~ Riverside, CA

11:30 **When is "Deferred Mitigation" or Post-Adoption Mitigation Permissible?**

When "deferred mitigation" analysis or post-adoption mitigation enforcement is appropriate and when it is not

Carlyle W. Hall, Jr., Esq.
Akin Gump Strauss Hauer & Feld LLP ~ Los Angeles, CA

12:00 Lunch (on your own)

1:15 **The Use and Abuse of "Project Objectives" and a "Reasonable Range of Alternatives"**

The points of tension between agencies and project proponents in setting objectives and alternatives; how to resolve them, and when off-site alternatives need not be considered

Susan Brandt-Hawley, Esq.
Brandt-Hawley Law Group ~ Glen Ellen, CA

Dale J. Goldsmith, Esq.
Armbruster Goldsmith & Delvac LLP ~ Los Angeles, CA

2:00 **The Timing of Environmental Review After *Save Tara v. City of West Hollywood***

When an agency's assistance to a project ripens into a commitment triggering CEQA review; how agencies can get socially desirable public-private projects moving; whether there are any "bright lines"

Jan Chatten-Brown, Esq.

David J. Aleshire, Esq.
Aleshire & Wynder, LLP ~ Irvine, CA

2:30 **Selecting a Project Baseline In Light of *CBE v. South Coast Air Quality Management District***

When it's appropriate to use something other than existing physical conditions as a project's baseline; when one can use the permitted-but-not-built condition as the baseline; how that relates to rules governing subsequent EIRs

Jocelyn Niebur Thompson, Esq.
Alston & Bird LLP ~ Los Angeles, CA

3:15 Break

3:30 **Supreme Attention: What Prompts the Supreme Court To Take A CEQA case?**

We are seeing unprecedented numbers of CEQA cases accepted by the California Supreme Court. Do they have anything in common? What factors seem to matter most in getting the Court to review a CEQA case?

Daniel P. Selmi, Esq.
Professor of Law & Fritz B. Burns Chair of Real Property
Loyola Law School ~ Los Angeles, CA

4:00 **Key Recent Developments in CEQA Appellate Case Law**

James G. Moose, Esq.
Remy, Thomas, Moose & Manley ~ Sacramento, CA

4:45 **Creative Settlements of Land Use Controversies**

"War stories" and creative settlement concepts that can be used to resolve even the most intractable land use disputes

James L. Arnone, Esq.

Richard S. Taylor, Esq.
Shute, Mihaly & Weinberger LLP ~ San Francisco, CA

5:30 Evaluations and Adjourn



About the Workshop

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This advanced, one-day workshop will cover a broad range of CEQA compliance issues. Extensive information will be provided about the new CEQA climate change guidelines; regional planning efforts and SB 375; determining when project alternatives are truly infeasible; determining when "deferred mitigation" or post-project mitigation is permissible; and how to set and assess project objectives and an appropriate range of alternatives. Speakers and a panel of experts will also discuss how to select an appropriate project baseline after CBE v. SCAQMD; how to know when to prepare an EIR after Save Tara v. City of West Hollywood, and the most important recent CEQA case law. A distinguished law professor will also discuss what prompts the Supreme Court to take a CEQA case, and a panel will share their experiences and suggestions for crafting creative settlements of seemingly intractable CEQA disputes.

The faculty will consist of General Counsel from the California Natural Resources Agency, the Executive Director of Southern California Association of Governments and a wide range of highly-experienced CEQA practitioners who will share practical tips and techniques to navigate the ever-changing CEQA landscape. In recognition of the differing perspectives that must be considered in addressing CEQA compliance issues, the presenters will include counsel for property owners and developers, environmental groups, and state and local governments.

~ Program Co-Chairs: James L. Arnone, Esq. and Jan Chatten-Brown, Esq.



James L. Arnone, *Program Co-Chair*, partner with Latham & Watkins, practices land use and environmental law, focusing on controversial real estate developments and local government-related disputes. He has advised clients on and litigated, a wide range of state and federal environmental and land use laws, including matters arising under CEQA and NEPA.

Jan Chatten-Brown, *Program Co-Chair*, is founder of Chatten-Brown & Carstens. The firm practices environmental, land use and natural resources law, frequently representing environmental and community groups in local and state government decisions under CEQA. They litigate a wide range of environmental laws in state and federal court and represent government agencies concerned with project impacts.

David J. Aleshire, partner at Aleshire & Wynder, LLP, focuses on municipal law, environmental, redevelopment, franchising, municipal, zoning, and land use law. He is City Attorney and Redevelopment Agency Counsel for Signal Hill, Banning and Suisun City.

Susan Brandt-Hawley, founding partner at Brandt-Hawley Law Group, practices environmental preservation law, advocating for adaptive reuse of threatened historic resources and protection of cultural landscapes.

Douglas Carstens, partner at Chatten-Brown & Carstens, focuses on environmental, land use, municipal and natural resource matters. He has written articles on CEQA public trust and water quality issues and assisted in the Supreme Court case *Save Tara v. City of West Hollywood*.

Dale J. Goldsmith, partner at Armbruster Goldsmith & Delvac LLP, focuses on land use, real estate and administrative matters. He has represented corporations and developers in high profile development projects.

Carlyle W. Hall Jr., senior counsel, Akin Gump Strauss Hauer & Feld LLP, is an authority on environmental and land use law and a co-founder of the Center for Law in the Public Interest, representing commercial, government and environmental interests.

Hasan Ikhtrata, Executive Director at Southern California Association of Governments, is responsible for implementing the policies and directing operations of the nation's largest metropolitan planning organization.

Kirk Miller, Deputy Secretary and General Counsel at California Natural Resources Agency, coordinates legal and regulatory matters and advises the Secretary and the Governor's office on environmental issues, including amendments to CEQA Guidelines.

James G. Moose, partner at Remy, Thomas, Moose & Manley, focuses on land use and environmental matters, with an emphasis on issues arising under CEQA, the State Planning and Zoning Law, NEPA, ESA and the California ESA. He is co-author of *Guide to the California Environmental Quality Act*.

Christopher H. Norton, partner at Latham & Watkins, focuses on environmental and energy law, land use and climate change law. His experience includes matters involving the Clean Air Act, CEQA and environmental liabilities.

Michelle Ouellette, partner in the Environmental Law & Natural Resources Practice Group of Best Best & Krieger LLP, focuses on environmental issues arising under CEQA, NEPA, state and federal ESAs, and wetland regulations.

Daniel P. Selmi is Professor of Law and Fritz B. Burns Chair of Real Property at Loyola Law School. He is a past chair of the State Bar Committee on Environmental Law and co-edits the treatise, *California Environmental Law and Land Use Practice*.

Richard S. Taylor, partner at Shute, Mihaly & Weinberger LLP, focuses on planning and zoning matters, CEQA, open space preservation strategies and public agency law. He is City Attorney to the City of Saratoga and regularly works with community organizations and public agencies to resolve complex land use and public policy disputes.

Jocelyn Niebur Thompson, partner at Alston & Bird LLP, focuses on environmental permitting, compliance and auditing, including environmental review under CEQA and NEPA, air and water quality, global climate change and permitting.

Matthew Vespa, Senior Attorney at Center for Biological Diversity, works with the Center's Climate Law Institute. He has litigated cases on the treatment of global warming impacts under CEQA and worked on OPR's development of CEQA guidelines for emissions under SB 97.

Bill Yeates, partner at Kenyon | Yeates LLP, focuses on environmental and land use consultation and litigation involving CEQA, NEPA, federal and California ESAs, Public Trust, State Planning and Zoning, California Coastal Act and others.

Michael H. Zischke, partner at Cox Castle & Nicholson LLP's Land Use Group, focuses on CEQA and land use litigation and compliance. He is co-author of the leading treatise on *CEQA Practice for Attorneys, Practice Under the California Environmental Quality Act*.

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Seminar Location: The workshop will be held at the DoubleTree Guest Suites Santa Monica Hotel at 1707 Fourth Street in Santa Monica, CA 90401-3310. Call the hotel directly at (310) 395-3332 for reservations. Rooms are on a first come, first served basis.

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New guidelines and and cases on compliance issues

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You Will Learn About:

- New CEQA guidelines on climate change
- SB 375's goals and role in implementing AB 32
- What constitutes an infeasible mitigation measure
- What prompts California Supreme Court to take a CEQA case
- How to set and assess project objectives
- CEQA appellate case law updates
- Creative settlements
- When to consider off-site alternatives
- Selecting a project baseline

Watch for our telebriefings on major legal developments.

Members of our distinguished faculties will present analyses of major decisions and other developments as soon as they happen in a one-hour telephone conference.

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kate@lawseminars.com

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Solar and Wind Energy Development	October 8 & 9, 2009	Phoenix, AZ
Winery and Wine Distribution Law	October 8 & 9, 2009	San Antonio, TX
Commercial Real Estate Workouts and Remedies	October 28, 2009	Los Angeles, CA
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