

## **BRISCOE IVESTER & BAZEL LLP**

### **STATEMENT OF QUALIFICATIONS**

#### **I. FIRM PROFILE**

Briscoe Ivester & Bazel LLP is devoted to excellence in the practice of land-use, environmental, and natural-resource law, with the goal of providing outstanding client service through expertise, insight, and responsiveness. The firm strives to understand each client's business, interests, and goals and to assemble the best talent, from inside and outside the firm, to achieve the desired results.

Attorneys at the firm are expert in remediation of contaminated soil and groundwater, hazardous waste, toxic torts, and liabilities under the Resource Conservation & Recovery Act, the Comprehensive Environmental Response, Compensation & Liability Act ("Superfund"), California hazardous waste law, and California Hazardous Substance Account Act. They regularly assist clients on environmental remediation matters, from initial environmental due diligence on a particular property to developing and negotiating strategies for remediation of contaminated sites. The firm has successfully resolved contamination issues at dozens of properties since the 1980s by developing assessment and remediation strategies, negotiating with potentially responsible parties or state and federal agencies, by helping clients assess the risks posed by contamination, or, when necessary, by defending enforcement actions and litigating responsibility issues.

Attorneys at the firm know the regulatory and permitting agencies at all levels, including the U.S. Army Corps of Engineers, Department of Toxic Substances Control, and the U.S. Environmental Protection Agency. The firm has developed good working relationships with these agencies, which helps us develop creative solutions and to advocate for its clients.

The firm's more significant redevelopment projects have included the reuse of Mare Island Naval Shipyard, Naval Training Center San Diego, and Alameda Naval Air Station.

Finally, Briscoe Ivester & Bazel has a long history of successfully counseling public agencies and private clients on matters requiring compliance with the California Environmental Quality Act and National Environmental Policy Act. This work has covered a wide variety of projects, including residential, commercial, industrial, utility and water, energy and resource development, port and waterfront, and remediation projects.

Briscoe Ivester & Bazel LLP can help advise the City of Benicia on developing site characterization and remediation strategies, and in assessing risks and negotiating with property owners, potentially responsible parties, and the various federal and state agencies involved. If the matter must ultimately be litigated, the firm can represent the City in administrative enforcement actions or contribution actions brought in federal or state courts to address contamination, remediation, and cleanup responsibility issues.

## II. ATTORNEY PROFILES

*John Briscoe.* Beginning with his time in the California Attorney General's Office, John has successfully litigated land use, condemnation, environmental, and natural-resources cases for over thirty-eight years. In addition, John has represented clients in hundreds of matters before administrative agencies such as the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, the California Department of Toxic Substances Control, and State and Regional Water Resources Control Boards, and various Regional Water Quality Control Boards.

*Larry Bazel.* Larry is a nationwide expert in Clean Water Act issues related to water quality and wastewater discharges. In the 1970s, before he began practicing law, he spent eight years as a hydrologist specializing in water pollution control, and as a consultant to the Environmental Protection Agency and the National Science Foundation. He litigates cases involving contaminated property and related environmental issues. He has litigated, negotiated with regulatory agencies, and advised potential buyers and lenders about dozens of contaminated properties.

*Christian Marsh.* Christian has been practicing land-use and natural-resources law for more than ten years. Before law school, he spent five years at the U.S. Department of the Interior and White House Office on Environmental Policy. Christian counsels clients on contaminated property matters, and he is responsible for reviewing a number of the firm's large-scale EIRs and ensuring compliance with the California Environmental Quality Act and the National Environmental Policy Act.

## III. REPRESENTATIVE MATTERS

### A. Representative Environmental Litigation Matters

*Pellegrini v. Technichem, Inc.* The firm represents three agencies of the state of California—the Department of Corrections, California Franchise Tax Board, and California Highway Patrol—in litigation relating to contamination of property in Emeryville.

*Movassate v. Dudley Ridge Properties, LLC.* The firm represented a manufacturer of industrial controls in defense of claims that the manufacturer contaminated the property during its operations. The case involves claims under CERCLA and the California Hazardous Substances Account Act (HSAA), the state equivalent.

*Robert Leal v. Regional Water Quality Control Board.* The firm represents a former landowner against claims by the Regional Board that the landowner is liable for mercury contamination. The matter is currently pending before the State Water Resources Control Board.

*Volvo GM Heavy Truck Corporation v. HM Holdings.* The firm represented a property owner in a private cost-recovery action against former owners and chemical manufacturers for property in Oakland contaminated with zinc, other metals, and acids. We creatively resolved the case to client's satisfaction.

*Wiegmann & Rose v. NL Industries.* The firm represented a former property owner in a private cost-recovery action against previous owners for contaminating 23-acre site in the City of Richmond with lead, toluene, and other solvents. We prevailed on liability issues, and then settled the case to client's satisfaction.

*Hewlett Packard v. Aydin.* The firm represented a former tenant in defense of claims that it breached its lease by contaminating the property with PCBs and solvents. We resolved the case to the client's satisfaction.

*Moore v. Dole Food Company.* The firm represented a former owner of real property in defense of claims that it fraudulently failed to disclose presence of underground tank. We successfully negotiated settlement with plaintiff and insurers.

*United States v. CTS Printex.* The firm represented landowner in CERCLA cost recovery action.

*United States v. Lockheed.* The firm's attorneys represented solvent-using facility, and convinced the U.S. Department of Justice, representing EPA, not to file a CERCLA cost-recovery action against the client.

## **B. Representative Environmental Counseling Matters**

*Henkel Corporation.* The firm represents a chemical manufacturer in negotiations with the Regional Water Quality Control Board, San Francisco Bay Region, on investigation and cleanup of former industrial site contaminated with petroleum, metals, and pesticides.

*Ross Valley Sanitary District.* The firm advised property owner about PCB and metals contamination regulated by DTSC.

*CTS Printex.* The firm represented electronics manufacturer at federal superfund site. The site was contaminated with chlorinated solvents, including TCE. The Regional Water Quality Control Board, San Francisco Bay Region, was the lead state agency.

*E/M Corporation.* The firm represented a solvent-using facility in negotiations with the U.S. Environmental Protection Agency and Regional Water Quality Control Board concerning responsibility for, and investigation and cleanup of, groundwater contamination with chlorinated solvents, including TCE and PCE.

*E/M Corporation.* Attorneys at the firm represented Mountain View solvent-using facility in negotiations with its neighbor about responsibility for soil contamination along the boundary, and for groundwater contamination downgradient. Negotiated satisfactory cleanup program with the Regional Water Quality Control Board, San Francisco Bay Region, and a settlement agreement with the neighbor.

*Industrial Waste Processing.* The firm's attorneys represented generator in negotiations with the Environmental Protection Agency at a federal superfund site (reprocessing wastes, including petroleum and metals wastes).

*Moss Landing Commercial Park.* The firm's attorneys represented property owner in Moss Landing in negotiations with Regional Water Quality Control Board, Central Coast Region, about chromium and petroleum contamination.

*Purchases and Sales of Contaminated Properties.* The firm's attorneys represented buyers, potential buyers, or sellers of contaminated properties in performing due diligence and negotiating purchase and sale agreements, including Fairchild Industries property (TCE and other solvent contamination in Mountain View and Palo Alto); Tenneco property (petroleum contamination in Bakersfield); Santa Fe Pacific Realty (later Catellus) property (review of 100,000+ acres, including Atlas Mine, a former asbestos mine later listed as a Superfund site); and Heavenly Ski Resort property (petroleum contamination in Lake Tahoe Region).

*Insurance and Financing of Contaminated Properties.* The firm advised insurers and lenders about potential sales of contaminated properties.

### **C. Base Closure and Reuse Matters**

*Mare Island Naval Base, Vallejo.* Represented city in negotiations with the California State Lands Commission on settlement of State title claims and environmental contamination and remediation liabilities at the former naval base transferred to the city's local reuse authority under the Base Closure and Realignment early-transfer process. Negotiated environmental liability concerns in furtherance of the transfer, cleanup, and settlement of state claims.

*Naval Training Center, San Diego.* Represented city in negotiations and settlement of title claims by the State of California to lands transferred by the U.S. Navy to the city under the Base Closure and Realignment process.

## John Briscoe



### Law Practice

John Briscoe has tried cases in state, federal, and international courts, and has argued before the California Supreme Court, the United States Supreme Court, and the Permanent Court of Arbitration in The Hague. In real property and environmental litigation he has represented large real-estate, water, oil, and mining companies, the country's largest title insurers; the California Land Title Association; the States of Alaska, Hawaii, Georgia, and California; the Government of Guam; the Ports of Oakland and Richmond, California; and many city and county governments. In addition he has represented the Federal Democratic Republic of Ethiopia, the Republic of Korea, the State of Kuwait, and the United Nations Compensation Commission (set up to hear the claims against Iraq, particularly the environmental claims, following the Gulf War of 1991).

Between 1981 and 2000, Mr. Briscoe served as special counsel to the State of Alaska in Supreme Court litigation against the United States. The case concerned the limit of American territorial waters off the north coast of Alaska between Icy Cape and the American-Canadian boundary. He served as special counsel to the State of Georgia in its Supreme Court land and maritime boundary dispute with the State of South Carolina. He has been a special assistant attorney general for the State of Hawaii with regard to the State's claim to the resources of the submerged lands of the Hawaiian archipelago, and for matters arising under Hawaii Homes Commission Act of 1920. And he has served as special counsel to the Territory of Guam in litigation against the United States Government seeking recovery of some 23,000 acres of Land.

Between 1972 and 1980, he practiced in the Land Law Section of the California Attorney General's Office, where he was responsible for major litigation including several actions in the original jurisdiction of the United States Supreme Court. Mr. Briscoe has published three books and numerous articles on natural resources, land use, land title and oceans law. He has authored papers and books on other subjects as well.

### Prior Experience

Deputy Attorney General, The State of California, San Francisco, California (1972-1980); visiting scholar, University of California, Berkeley, Boalt Hall School of Law, San Francisco, California (1990-2000).

### Contact

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### Education

J.D. cum laude,  
University of San  
Francisco Law School,  
1972; Law Review

### Admissions

State Bar of California

United States District  
Court for the Northern,  
Eastern and Central  
Districts of California

Ninth Circuit Court of  
Appeals

Supreme Court of the  
United States

Permanent Court of  
Arbitration

## **Selected Professional Activities**

Member and past chair, Board of Directors, San Francisco Bay Planning Coalition; president, Historical Society of the Northern District of California; past member, Council of Friends of The Bancroft Library, University of California, Berkeley; chair, Advisory Board of the MFA Program in Creative Writing, St. Mary's College of California; California Sea Grant Program Advisory Board; Advisory Board, Law of The Sea Institute, University of California, Berkeley; American Bar Association; California Bar Association;

## **Representative Cases**

### **Permanent Court of Arbitration, The Hague**

*Eritrea-Ethiopia Claims Commission*. Represented Ethiopia in this case arising from the war between the two countries between 1998 and 2000.

### **United States Supreme Court**

*Friends of the Earth v. Laidlaw Environmental Services, Inc.*, 528 U.S. 167, 145 L.Ed.2d 610 (2000). Filed amicus curiae brief on behalf of the California Association of Sanitation Agencies.

*United States v. Alaska*, 521 U.S. 1, 138 L.Ed.2d 231 (1997). Tried lengthy case before Special Master J. Keith Mann in 1984 and 1985, and appeared for defendant State of Alaska before the Supreme Court in 1997. The case concerned the application of international law-of-the-sea conventions to the Arctic coast of Alaska.

*United States v. California*, 449 U.S. 1028 (1980). Tried case before Special Master Alfred Arraj in 1978 and 1979, and appeared before the Supreme Court on behalf of defendant State of California in 1980. The case concerned the application of international conventions to the coast of California.

*Georgia v. South Carolina*, 475 U.S. 1115 (1986). Served as special counsel to the State of Georgia during trial proceedings before special master, and before Supreme Court, on the questions of the lateral seaward boundary, initially to 200 nautical miles, between the states of South Carolina and Georgia, under applicable international law.

*California v. Arizona and the United States*, U.S. Supreme Court (1977-78). Following a decision of the Court, 440 U.S. 59, tried the case before the Court's Special Master Roy W. Harper, which resulted in decree in favor of California, 452 U.S. 431 (1981).

*United States v. Louisiana, Alabama and Mississippi Boundary Case*, 470 U.S. 93 (1985). Filed brief as amicus curiae on behalf of the State

### 9th Circuit Court of Appeals

Mr. Briscoe has appeared before the Ninth Circuit on several occasions. Two recent cases are *Washington*, 148 F.3d 1053 (9th Cir. 1999) and *York Boundary Case, v. United States of America*, 179 F.3d 612 (9th Cir. 2000), both argued on behalf of State of California.

### California Courts of Appeals

Mr. Briscoe has argued before the California Courts of Appeals on numerous other occasions. Many of the decisions in the past have been published but a number have not. Two unpublished cases are *People ex rel. State Lands Commission v. State of California*, 3d 727 (1973) and *Hitchings v. Del Rio*, 3d 727 (1973). *of Stockton, A.G. Spanos v. State of California*, 3d 727 (1973) (argued on oral argument).

### Trial Court Cases

In the federal and state trial courts, Mr. Briscoe has argued 790 (1985). Argued on behalf of property owners in land-use, environmental, and other projects. In the federal courts, he has represented the Squaw Creek Project at North Lake Tahoe, the First Amendment in fisheries case. In state trial courts he has represented Grupe Company, Marriott Corporation regarding the San Francisco Airport MTR Co. (now Cargill, Incorporated), the *Banko v. State of California* (the final redetermination of interests in the *Banko v. State of California* and *Government of Guam*, 1 Cir. 1999).

Courts of Appeal on many occasions. He has argued have not only more unusual cases are *Superior Court*, 36 Cal. App. 3d 1000 (1972) and *State's Recreation & Park*.

of Alaska, urging the position of the state.

*United States v. Maine, Rhode Island and Alaska*, 469 U.S. 504 (1985). Filed brief as amicus curiae on behalf of Alaska, urging the position of the state. He has tried condemnation, natural resource cases, such as the developer of the Vallejo Sanitation

Mr. Briscoe has participated as amicus curiae in the Supreme Court from 1974 to date. Title Insurance. He has represented such clients as The State of California (in separate lawsuits regarding the former Leslie

### California Supreme Court

*Stockton Citizens for Sensible Planning v. Shell Oil Companies, et al.* (review granted; case argued). He has argued on behalf of the Stockton Citizens for Sensible Planning regarding the Shell Oil Company's proposed oil field in the San Joaquin Hills.

*Redevelopment Agency v. Gilmore*, 38 Cal. 4th 1000 (2005). Argued on behalf of the Redevelopment Agency before the California Supreme Court on this condemnation case.

Alaska), and W.R. Grace & Company in class action litigation regarding asbestos in California homes.

### **Administrative Matters**

In addition, Mr. Briscoe has represented clients in hundreds of matters before administrative agencies such as the United States Army Corps of Engineers, the San Francisco Bay Conservation and Development Commission, the California Coastal Commission, the Environmental Protection Agency, the California State Lands Commission, the California Water Resources Control Board, and various California Regional Water Quality Control Boards. His clients in these matters have included major real-estate developers, water interests, oil and mining companies, railroads, municipalities, the Ports of Oakland and Richmond, and Oscar winner (Best Actor) Cliff Robertson.

### **Selected Publications:**

#### **Books**

- *Tadich Grill: The Story of San Francisco's Oldest Restaurant* (Ten Speed Press, 2002)
- *Surveying the Courtroom* (2d ed., John Wiley & Sons, 1999)
- *Falsework* (1998)
- *Reports of the Special Masters in the Submerged Lands Cases* (Landmark Press, 1993)
- *Surveying the Courtroom* (Landmark Press, 1984)

#### **Articles**

- John Briscoe & Peter Prows, *The U.N. Convention on the Law of the Sea Turns 27, and American Ratification Is Not in Sight – Still*, 1 Berkeley J. Int'l L. Publicist 18 (2009)
- *Garret McEnerney: California's Greatest Lawyer?*, 15 The Argonaut – Journal of the San Francisco Museum and Historical Society 1 (Summer 2004)
- *The Aboriginal Land Title of the Native People of Guam*, 26 University of Hawai'i Law Review 1 (Winter 2003)
- *A Life of Law and Letters – Louis F. Claiborne, 1927-1999*, XXIII The Supreme Court Historical Society Quarterly 3 (2002)
- *Iraq's Defilement of the Gulf Environment, and the Damages Awards To Come*, in Proceedings of the Twenty Third

Annual Conference, Current Maritime Issues and the International Maritime Organization, London, England (January 7, 1999)

- *The Division of America's Offshore Zones as Between Nation and State*, presented at Implications of Entry into Force of the Law of the Sea Convention for U.S. Ocean Governance, The Ocean Governance Study Group, University of Hawaii, Honolulu, Hawaii (January 9-11, 1995), and published in Implications of Entry into Force of the Law of the Sea Convention for U.S. Ocean Governance, The Ocean Governance Study Group, University of Hawaii (April 1995)
- *Wetlands and Ex-Wetlands in California: The Perils of Insuring Their Titles*, in *Title Insurance, Real Estate Law and Practice* (Course Handbook Series, No. N-412, 1995)
- *The Clean Water and Endangered Species Acts – Reform is in Sight (But of What Kind?)*, San Francisco Business Times (January 24, 1992)
- *The Effect of President Reagan's 12-Mile Territorial Sea Proclamation on the Boundaries and Extra-Territorial Powers of the Coastal States*, University of California (1991), reprinted in 2 *Territorial Sea Journal* 225 (1992)
- Book Review, *The Juridical Bay* by Gail Westerman, 20 *Ocean Development and International Law* (1989)
- *America's Offshore Zones*, Western Legislative Conference Ocean Resources Committee, Monterey, California (November 11, 1989)
- *Islands in Maritime Boundary Delimitation*, 7 *Ocean Yearbook* (1988)
- *The Use of Islands in Maritime Boundary Delimitation*, in *Rights to Oceanic Resources* (Dallmeyer and DeVorsey eds.), Dean Rusk Center for International and Comparative Law, University of Georgia (1989) (based on paper presented at a symposium held at the Center on May 2, 1987)
- *Federal-State Offshore Boundary Disputes: The State Perspective, in the Developing Order of the Oceans*, (Krueger and Riesenfeld eds., Law of the Sea Institute 1985)
- *Seabed Mineral Discoveries Within National Jurisdiction and the Future of the Law of the Sea*, 18 *University of San Francisco Law Review* 433 (1984)

- *Delimitation Questions in United States v. California (1980)*, 25 Journal of Urban and Contemporary Law 203 (1983)
- *Developing Sites Near Water: Running a Government Gauntlet*, Journal of the Industrial Development Research Council 27 (March/April 1983)
- *The Use of Tidal Datums in the Law*, 43 Surveying and Mapping 115 (1983)
- *An Introduction to Civil Procedure and Evidence for the Land Surveyor*, 73 Bulletin of the American Congress on Surveying and Mapping 27 (1981)
- *Legal Problems of Tidal Marshes*, in San Francisco Bay: The Urbanized Estuary, The Pacific Division of the American Association for the Advancement of Science (1979)
- *Gion After Seven Years: Revolution of Evolution?*, 53 Los Angeles Bar Journal 207 (1977)
- Reidel, 37 *Photographs and Lueros: The Disinterring of Roth*, 6 University of San Francisco Law Review 399 (1972)

## Lawrence S. Bazel

### Law Practice

Larry Bazel practices in the areas of environmental litigation and administrative proceedings, including matters related to water quality and wastewater discharges, contaminated soil and groundwater, CEQA, water rights, toxic torts, and Proposition 65. He has represented cities, industries, and public-interest groups, and has lectured on TMDLs, stormwater, and other Clean Water Act issues. Before practicing law, he spent eight years as a hydrologist specializing in water pollution control, and as a consultant to the Environmental Protection Agency, the National Science Foundation, and municipal governments.

### Prior Experience

Partner, Stoel Rives LLP (2001-2005); Partner, Beveridge & Diamond LLP (1991-2000); Associate, Brobeck, Phleger & Harrison (1984-1991); Consulting Hydrologist (1973-1981).

### Representative Cases

#### *Water Quality and Clean Water Act*

*City of Las Vegas.* Assists City of Las Vegas and other Southern Nevada municipalities on environmental issues relating to water quality and wastewater discharges, including TMDLs, mathematical modeling, and NPDES permits.

*United States v. City of Eureka.* Represented ten property owners in defense of claims that the property owners placed fill on tidal flats without a permit from the Corps of Engineers. Creatively resolved without penalties.

*BayKeeper v. Tosco.* Represented discharger in citizen suit brought to regulate stormwater discharges and air emissions alleged to be point-source discharges. Obtained dismissal on the ground of mootness. After reversal in the Ninth Circuit, settled to client's satisfaction.

#### **CEQA**

*Concerned Citizens v. City of Stockton.* Defending City of Stockton against claims that hiring company to operate city facilities violated CEQA. Prevailed on interlocutory appeal.



### Contact

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### Education

J.D. cum laude, Hastings College of the Law, University of California, 1984; Editor, Hastings Law Journal

### Admissions

State Bars of California, Nevada, and District of Columbia

United States Supreme Court

United States Courts of Appeals, Ninth and D.C. Circuits

United States District Courts, Northern and Eastern Districts of California, and District of Nevada

## ***Water Rights***

*Putah Creek Council v. Solano County Water Agency.* Represented Putah Creek Council in suit brought to enforce the public trust doctrine and Fish & Game Code section 5937, which requires dam owners to release water to keep fish below the dam in good condition. Prevailed at trial; favorably settled on appeal.

## ***Proposition 65***

*People v. Ace Hardware.* Represented 40 of 95 defendants in defense of claims that the use of power tools on bricks and other masonry products exposes people to crystalline silica and other carcinogenic substances. Resolved to satisfaction of all clients.

## ***Soil and Groundwater Contamination***

*Volvo GM Heavy Truck Corporation v. HM Holdings.* Represented property owner in private cost-recovery action against former owners for contaminating property with zinc, other metals, and acids. Creatively resolved to client's satisfaction.

*Wiegmann & Rose v. NL Industries.* Represented former property owner in private cost-recovery action against previous owners for contaminating property with lead, toluene, and other solvents. Prevailed on liability issues, and then settled to client's satisfaction.

*E/M Corporation.* Represented North Hollywood solvent-using facility in negotiations with Environmental Protection Agency about responsibility for groundwater contamination with TCE and PCE. EPA decided not to sue.

*Moore v. Dole Food Company.* Represented former owner of real property in defense of claims that it fraudulently failed to disclose presence of underground tank. Negotiated satisfactory settlement with plaintiff and insurers.

*Hewlett Packard v. Aydin.* Represented former tenant in defense of claims that it breached its lease by contaminating the property with PCBs and solvents. Resolved to client's satisfaction.

*E/M Corporation.* Represented Mountain View solvent-using facility in negotiations with its neighbor about responsibility for soil contamination along the boundary, and for groundwater contamination downgradient. Negotiated satisfactory cleanup program with the California Regional Water Quality Control Board and settlement agreement with neighbor.

### ***Hazardous Waste***

*People v. SPS Technologies, LLC.* Represented industry sued for allegedly storing and treating cyanide waste in violation of hazardous-waste requirements. Settled to client's satisfaction.

### ***Safe Drinking Water Act***

*Western Coalition of Arid States (WESTCAS) v. U.S. Environmental Protection Agency.* Represented association of water and wastewater agencies in suit over arsenic MCL. Settled to client's satisfaction.

### ***Toxic Torts***

*DeAnnette v. National Refractories.* Successfully defended manufacturer against claims that airborne metals caused cancer in neighboring resident.

*Mullen v. Armstrong World Industries.* Successfully defended manufacturer of asbestos-containing products against class action by persons owning homes where asbestos-containing products were present. Action dismissed by trial court; affirmed on appeal.

### **Lectures and Presentations**

Frequent lecturer on stormwater, TMDLs, enforcement, and other Clean Water Act issues; invited to testify about water pollution control before the U.S. House of Representatives, Committee on Public Works and Transportation, Subcommittee on Investigations and Review (1978).

The Clean Water Act at Thirty: A Failure After All These Years? 18 *Natural Resources & Environment* 46 (2003).

Water-Quality Standards, Maximum Loads, and the Clean Water Act: The Need For Judicial Enforcement, 34 *Hastings Law Journal* 1245 (1983).

## Christian L. Marsh

### Law Practice

Christian Marsh advises public and private clients on natural resource and land use matters involving the public trust doctrine, water supply and water quality, boundary disputes, endangered species, California planning and zoning law, and the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). Christian conducts trial and appellate-level litigation in each of these areas, as well as in eminent domain proceedings. He regularly represents clients on regulatory and other administrative matters pending before the U.S. Army Corps of Engineers, Fish & Wildlife Service, NOAA Fisheries, Bureau of Reclamation, California Reclamation and Regional Water Quality Control Boards, Department of Fish & Game, State Lands Commission, and local governments.

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 policy, specifically in the Columbia River basin, the California Bay-Delta, and the U.S.-Mexico border region. Christian helped coordinate the Department's implementation of the California Bay-Delta Accord, Central Valley Project Improvement Act, and the North American Free Trade Agreement's Environmental Side Accord.

### Prior Experience

Stoel Rives LLP, San Francisco, California (2001-2005); Washburn, Briscoe & McCarthy, San Francisco, California (2000-2001); Semester Intern, Natural Resources Division of the California Attorney General's Office, San Francisco, California (spring 1999); Special Assistant, Offices of the Deputy Secretary and Assistant Secretary for Water & Science, U.S. Department of the Interior, Washington, D.C. (1994-1997); Staff Assistant, White House Office on Environmental Policy, Washington, D.C. (1993-1994).

### Representative Cases

#### **Stockton Citizens for Sensible Planning v. City of Stockton.**

Represent landowner in defense of claim that approval of a shopping center violated CEQA, the California Constitution, and California planning and zoning laws. Prevailed on appeal to the California Supreme Court.



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### Education

J.D., Hastings College of the Law, University of California, San Francisco, 2000;  
Associate Editor, West-Northwest Journal of Environmental Law and Policy (1998-2000);  
Pace Environmental Moot Court Competition Team Member, Hastings Moot Court Advisory Board (1999-2000)

B.A., Economics & Politics, University of California, Santa Cruz, 1992

### Admissions

State Bar of California

United States Court of Appeals, Ninth Circuit

United States District Court, Northern District of California

**Morada Area Association v. City of Stockton.** Represent developer in defending action under CEQA seeking to halt 2,000-acre subdivision based on alleged impacts associated with groundwater and surface water supplies, including water quality.

**Foothill Conservancy v. East Bay Municipal Utility District.** Defending against lawsuit brought under CEQA to set aside programmatic Environmental Impact Report (EIR) for long-term water supply management program.

**Humboldt Baykeeper v. Union Pacific.** Assisted in defense against a citizen suit brought under the federal Clean Water Act and Resource Conservation & Recovery Act (RCRA) to force the clean up and halt the discharge of stormwater from a contaminated site.

**Arm v. City of Richmond.** Successfully settled CEQA action challenging EIR on major improvement project for the Port of Richmond.

**Greenbelt Alliance v. City of Oakley.** Represented project applicants in defending a CEQA challenge to approval of the East Cypress Corridor Specific Plan, a residential subdivision proposed in Eastern Contra Costa County.

**Santa Cruz Seaside Company v. City of Santa Cruz.** Assisted in representing landowner in quiet title action brought concerning ownership of lands that the City and State of California claim are historical tidelands under the equal footing and public trust doctrines.

**Robertson v. San Geronimo Valley Planning Group.** Successfully settled action to quiet title to appurtenant water rights, including groundwater.

**Brentwood Union School District v. Brentwood RE Investors, LLC.** Assisted in successful representation of landowner at jury trial in eminent domain proceedings to determine the amount of just compensation under the State and Federal Constitutions.

**Bertani v. City of Vacaville.** Assisted in defense against CEQA and zoning code challenges to commercial shopping center. Prevailed at trial and on appeal.

**Santa Teresa Citizens Action Group v. City of San Jose.** Assisted in defense against suit challenging construction of a pipeline for delivery of reclaimed water to a new energy facility brought by a private water company under CEQA, California planning laws, the public trust doctrine, and common law public nuisance. Prevailed at

trial and on appeal.

### **Representative Projects**

**Fairfield Station Specific Plan, Fairfield.** Represent landowner on mixed-use project. Successfully negotiated a plan for development and preservation of vernal pool habitat for Contra Costa goldfields and California tiger salamander.

**Dam Retrofit Project, Contra Costa County.** Represent regional utility district on the seismic retrofit of a dam, including issues concerning mitigation for endangered species impacts and 401 water quality certification from the Regional Board.

**Sanctuary Master Development Plan, Stockton.** Represent private development company on permits and entitlements for a 2,000-acre mixed-use project. Advised the client on all aspects of CEQA compliance and helped evaluate and prepare the EIR and Water Supply Assessment. We are also leading the effort to secure wetlands and endangered species-related permits.

**Marina Center Mixed Use Project, Eureka.** Represented landowner on 43-acre brownfield mixed-use redevelopment project on permitting and entitlement issues, including certification of the project's EIR. The EIR addressed major issues including climate change, coastal wetlands, site remediation, cultural resources, traffic, and wastewater.

**Sutter Pointe Specific Plan, Sutter County.** Represented public agency on review and approval of programmatic EIR for a 7,500-acre specific plan, which addressed issues associated with development under a regional multi-species Habitat Conservation Plan (HCP), flood control, water supply, climate change, and regional transportation infrastructure.

**East Cypress Corridor Specific Plan, Oakley.** Represented developers of a 1,255-acre master-planned community, and lead the efforts to conduct NEPA and CEQA review and to obtain all of the project's federal, state, and local permits associated with surface waters and wetlands, water quality, water supply, and threatened and endangered species (e.g., giant garter snake, delta smelt, Chinook salmon, steelhead, Western burrowing owl, and Swainson's hawk).

**Water Diversion Project, Livermore.** Represented local agency on negotiations with state and federal wildlife and water quality agencies on renewal of wetland permit, water quality certification, and streambed alteration agreement for in-stream placement of diversion works and diversion of water for a municipal golf course.

**Cypress Grove Subdivision, Oakley.** Represented a consortium of developers on a residential subdivision project. In addition to assisting with review of the project under CEQA and NEPA, we secured inclusion within the Central Valley Project water contract service area, and concluded necessary consultations with the Service and NOAA Fisheries for several listed species.

**Bay Checkerspot Butterfly Habitat, Santa Clara County.** Represented a coalition of landowners and developers in the administrative proceedings to designate critical habitat for the bay checkerspot butterfly in Santa Clara County, California, and succeeded in persuading the Service to amend its proposed designation.

**Scotts Valley spineflower and polygonum Habitat, Santa Cruz County.** Represented landowner in the administrative proceedings to designate critical habitat for the Scotts Valley spineflower and polygonum.

**Mare Island Naval Base, Vallejo.** Represented city in negotiations with the California State Lands Commission on base closure and reuse and a settlement of State title claims to significant portions of the former naval base under the public trust and equal footing doctrines.

**Naval Training Center, San Diego.** Represented city on base closure and reuse in negotiations and settlement of title claims by the State of California to former tide and submerged lands.

### **Professional Activities/Memberships**

Member, American Bar Association Section on Environment, Energy & Resources (2000-present); Chair, ABA Endangered Species Committee (2008-present); Member, California Bar Association Section on Environmental Law (2000-present); Associate Member, California Groundwater Resources Association (2006-present); Associate Member, Association of California Water Agencies (2008-present).

### **Articles**

*Prairie Dog HCP Upheld: Wildearth Guardians Appeal*, ABA Section of Environment, Energy & Resources, Endangered Species Committee Newsletter, Vol. 12, No. 1 (Jan. 2010); *The Endangered Species Act: It's Time Reasoned Reform*, ABA Trends Newsletter,

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### **Presentations**

*Bay-Delta Water Policy and Emerging Science*, California Water Law Symposium V, San Francisco, California (Jan. 31, 2009); *Integrating Federal & State Law in Local Land Use Planning: Wetlands, Endangered Species & NEPA*, Lorman Seminar on Zoning, Subdivision and Land Development Law, Stockton, California (Sept. 23, 2008); *Water Rights, Water Supply Planning & CEQA Compliance*, Lorman Seminar on Water Rights Sales & Transfers, San Francisco, California (July 23, 2008); *Hot CEQA Litigation*, California Bar Association, Environmental Law Section Spring Roundtables, San Diego, California (June 27, 2008); *Wetlands and Wildlife – Navigating Clean Water and Endangered Species*, Lorman Advanced Zoning and Land Use Seminar, Redding, California (March 8, 2007); *Water Supply Planning, CEQA Compliance & Land Use Litigation*, Lorman Zoning & Land Use Seminar, Stockton, California (Nov. 1, 2006); *Water Supply Planning: Too Little, Too Much*, California Bar Association, Environmental Law Section Spring Roundtables, Monterey, California (June 10, 2006); *Western Water Law*, Environmental Law Institute, Western Boot Camp on Environmental Law, San Francisco, California (March 28, 2006); *Permitting and the Federal*

*Endangered Species Act*, American Planning Association, National Planning Conference, San Francisco, California (March 22, 2005).