

## Matthew Wickersham

Partner

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Matt Wickersham has a broad national environmental and energy practice involving complex litigation, regulatory counsel, and transactional matters. He has represented clients in a wide variety of federal and state environmental litigation, including toxic tort litigation and class actions, citizen lawsuits, and environmental enforcement actions. He has extensive experience resolving land-use disputes and disputes under the California Environmental Quality Act (CEQA). Matt also has substantial experience in cost-recovery litigation in state and federal courts under California's Superfund law and Hazardous Substance Account Act (HSAA) and the federal Superfund law (CERCLA). At the same time, Matt regularly helps clients devise solutions to difficult regulatory problems, represents clients in administrative proceedings, and assists clients with deals and development projects. Matt also advises clients on regulatory programs related to environmental warning labels, underground storage tanks, environmental disclosure laws, brownfield laws, water rights, and land-use regulations.

Matt served as a clerk to the Honorable Ronald M. Gould of the U.S. Court of Appeals for the Ninth Circuit. He earned his J.D. from the University of Southern California, where he served as a judicial extern to the Honorable Lourdes G. Baird of the U.S. District Court for the Central District of California, was an articles editor of the *Southern California Law Review*, and received the Law Alumni Award for highest GPA in his graduating class.

### **Representative Experience**

#### **Cost Recovery and Toxic Tort**

- Represented a water district against claims of cross-contamination based on the theory that the construction and maintenance of a drinking-water well allowed for the deeper migration of regional solvent contamination. The claim was voluntarily dismissed without prejudice shortly after discovery began.
- Represented a steel mill against claims of nuisance and cost recovery from the alleged disposal of lead-containing wastes.
- Represented a company accused of selling fire retardant foam with per- and polyfluoroalkyl substances (PFAS) to the U.S. Navy in a toxic tort case filed by a New York municipality seeking to recover costs associated with PFAS contamination at an airport and National Guard base.
- Representing a materials manufacturer in connection with the alleged contamination of a dairy farm from PFAS through application of sewage sludge as soil enhancers.
- Representing a real estate developer in a putative class action and individual lawsuits seeking personal injury and property damage from the alleged failure to disclose the presence of radioactive substances at a former naval shipyard that is the site of San Francisco's largest development project in a century.
- Counsel to an aerospace manufacturer in federal and state cost-recovery actions under CERCLA and the HSAA alleging groundwater contamination from TCE and perchlorate.

- Defended an aerospace company in a toxic tort lawsuit involving more than 800 plaintiffs who claimed personal injuries and property damage resulting from alleged exposure to chemicals in drinking water. These claims were settled on favorable terms after the trial court excluded the opinions of the plaintiffs' primary medical experts.
- Defended an aerospace manufacturer against claims of public and private nuisance in an action seeking damages for soil contamination, resulting in the plaintiff's voluntary dismissal on the day before the hearing on our summary judgment motion.
- Defended a waste-management company in a cost-recovery action seeking damages for contamination from a landfill under the California Superfund law and common-law causes of action, resulting in summary judgment in the client's favor and subsequent affirmation on appeal.

## ***Oil and Gas***

- Represented seven oil companies (that generate about 90% of the oil production within California) as interveners defending a lawsuit brought by environmental organizations against the state oil and gas agency. The petitioners argued that the state's implementation of a compliance schedule violated the Safe Drinking Water Act, and they sought the immediate shut-in of thousands of injection wells across the state. The trial court denied all claims, which was affirmed in full by the First District Court of Appeal. The California Supreme Court denied review.
- Represented a large oil production company, along with impacted business partners and royalty owners, in a challenge to a countywide ballot initiative that would immediately prohibit well stimulation and the drilling of new wells and would impose a sunset date for the injection or impoundment of produced water. If implemented, the ballot initiative would have shut down all operations at the eighth-largest oil field in the state. The trial court held that the initiative was pre-empted by federal and state law, and enjoined implementation.
- Obtained a pleadings-stage dismissal of a lawsuit challenging the issuance of drilling approvals for five exploratory wells issued in violation of CEQA. The court dismissed the claim without leave to amend in response to our demurrer.
- Represented an oil production company as the real party in interest against a lawsuit challenging the issuance of a renewed conditional use permit, allowing the continued operation of an established oil lease. The trial court denied the claims in their entirety, which was affirmed by the court of appeal. The California Supreme Court denied review.
- Represented an energy company in a lawsuit challenging the submission of an aquifer exemption application for a large oil field. The trial court denied the petitioner's claims that the California Division of Oil, Gas, and Geothermal Resources (DOGGR) and the State Water Resources Control Board were required to comply with CEQA before submitting an exemption application to the U.S. EPA, in a complete victory that was not appealed.
- Represented an energy company in obtaining a preliminary injunction against the enforcement of regulations from DOGGR that would have imposed substantial daily penalties for continued injection into nonexempt aquifers that were the subject of pending agency approval.
- Counsel for an oil and gas company in CEQA litigation brought by environmental activist groups challenging hundreds of permits to drill oil and gas wells in a large oil field in Kern County, California. The trial court has denied the claims in their entirety, holding that issuance of the permits was a ministerial action.

- Represented three petroleum industry groups as interveners in a lawsuit initiated by environmental organizations against DOGGR that challenged DOGGR's regulation of hydraulic fracturing. The case was dismissed without leave to amend based on recent legislation regulating hydraulic fracturing in California.
- Represented an energy company in a CEQA matter related to Los Angeles County's adoption of a community standards district for a large urban oil field. The case was settled on terms favorable to the client.
- Represented a petroleum company in response to threatened claims under Proposition 65 for the discharge of listed chemicals to an underground source of drinking water. The claims were settled on favorable terms.

## **Land Use and Property Development**

- Representing a multinational package delivery and supply chain management company against legal challenges by a union under CEQA and the Brown Act seeking to halt construction of a critically needed regional distribution center. The judge denied the plaintiffs' request for a temporary restraining order and preliminary injunction suspending construction of the facility.
- Represented a real estate development company in an attack against the environmental impact report (EIR) and related entitlements to implement a large redevelopment of existing residential housing in San Francisco. After previously dismissing the petitioners' due process claims, the trial court held a three-day bench trial on the remaining claims and ruled against the petitioners' claims in their entirety, which was subsequently affirmed on appeal.
- Representing a real estate developer in the acquisition and development of a former gas station.
- Representing a landowner named in an imminent and substantial endangerment order by the California Department of Toxic Substances Control involving contamination from an adjacent plating facility.
- Representing a water district in a challenge to the 2019 Addendum to the Coordinated Operation Agreement between the California Department of Water Resources and U.S. Bureau of Reclamation for water exports from the Sacramento Delta.
- Represented a synagogue and preschool in negotiating construction and operating conditions for the adjacent development of a multistory hotel and condominium, and to resolve concerns about security, air quality, construction noise, and traffic circulation.
- Represented a real estate development company in an attack against the environmental impact report (EIR) and related entitlements to implement a large redevelopment of existing residential housing in San Francisco. After previously dismissing the petitioners' due process claims, the trial court held a three-day bench trial on the remaining claims and ruled against the petitioners' claims in their entirety, which was subsequently affirmed on appeal.

## **Publications & Presentations**

### **Publications**

- "Legal Defenses for Employers in COVID-19 Litigation in California," *The Recorder*, June 30, 2020.
- "Climate Change Science and the Daubert Standard," *William & Mary Environmental Law and Policy Review*, May 12, 2020.
- "INSIGHT: Agency Regulation of PFAS Must Balance Costs, Benefits," *Bloomberg Environment*, April 24, 2019.
- "Environmental Litigation and Toxic Torts Chapter: Year-in-Review 2018," American Bar Association, Section of Environment, Energy & Resources, April 23, 2019.
- "Calif. Regulators Should Account for PFAS Uncertainty," *Law360*, April 3, 2019.

- “Gold King Mine Spill Points to EPA Institutional Failure,” *Law360*, September 9, 2015.
- “Looking at the Legal Deficiencies of Local Fracking Bans,” *Law360*, March 6, 2015.
- “2014 Fracking Year in Review: California Edition,” *Law360*, December 10, 2014.
- “Fracking Fights Are Increasingly Becoming Local,” *Law360*, July 2, 2014.
- “Fracking Ban Will Have Consequences,” *Los Angeles Daily Journal*, March 19, 2014.
- “Last Minute CEQA Bill Offers Quick Fixes to Procedural Rules,” *Los Angeles Daily Journal*, September 17, 2013.
- “US Government Cannot Escape Liability Under CERCLA,” *Los Angeles Daily Journal*, January 23, 2013.
- “Calif. Fracking Litigation May Bring Economic Harm,” *Law360*, December 4, 2012.

### **Presentations**

- “Ethical Implications of Environmental Due Diligence,” moderator, LACBA’s 33rd Annual Environmental Law Section Spring Symposium, Los Angeles, CA, April 12, 2019.
- “It’s Time to Protect Your Clients from PFAS Risk,” Environmental Data Resources Due Diligence at Dawn Seminar, Costa Mesa, CA, October 10, 2018..
- “PFAS: Not Your Typical Emerging Contaminant,” LACBA’s 32nd Annual Environmental Law Spring Super Symposium, Los Angeles, CA, April 13, 2018.

### **Professional & Community Engagement**

- Los Angeles County Bar Association, Environmental Law Section, Executive Committee
- ABA Section of Environment, Energy, and Resources (SEER), Environmental Litigation and Toxic Torts Committee, Year-in-Review vice chair
- Council for Watershed Health, board
- BizFed, Energy & Environment Committee, co-chair

### **Education**

- University of Southern California (J.D., 2005)
- Georgetown University (B.S., 2000)

### **Admitted to Practice**

- California

### **Related Services**

Environment, Land Use & Natural Resources | Litigation | Environmental Litigation | Environmental Appellate Litigation | Land Use | Oil & Natural Gas | Environmental Compliance, Permitting & Transactions | Appellate | Toxic Torts | Perfluoroalkyl & Polyfluoroalkyl Substances (PFAS)