



Davin A. Widgerow

Partner

San Diego

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PRACTICES

Environmental Land Use and
Natural Resources
Public Law

EDUCATION

J.D., University of Madison,
Wisconsin, 2011

B.A., cum laude, University of
California, Berkeley, 2005

ADMISSION

State Bar of California
United States District Court for
the Central District of California

Davin Widgerow is a partner in Burke's San Diego office. He received his J.D. from the University of Madison, Wisconsin, in 2011, and his B.A. *cum laude* in Political Science from the University of California, Berkeley, in 2005. Davin has extensive experience representing public agencies in both advisory and litigation roles, including as a Deputy City Attorney for the City of San Diego, where he handled flood control, water quality, CEQA/planning, contracting, and Public Records Act issues for the City's Storm Water Division and other departments, and as a Deputy Attorney General for the California Department of Justice, where he litigated CEQA, air quality, environmental justice, and toxic tort matters on behalf of the state attorney general and the people of the State of California.

Davin has significant experience with the full range of laws affecting California public agencies, particularly in environmental, planning, and land use law. He has special expertise advising agencies and litigating cases involving the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA), the Clean Water Act, CERCLA, hazardous waste laws, toxic tort law, and a suite of related laws and regulations involving air quality, water quality and flood control, public contracting, open meetings laws, and the Public Records Act, among others. Davin has years of expertise in providing both compliance advice and litigation services in CEQA, planning and land use, NEPA, Clean Water Act NPDES problems and citizen suits, and hazardous waste, sewage, and landfill issues. He has advised public agencies on countless planning projects, permitting issues, and legal and administrative settlements.

Davin is an experienced litigator, and has handled cases involving CEQA, Clean Water Act citizen suits, air quality regulations, insurance coverage disputes, and permitting, landfill, and hazardous waste issues. Davin's litigation experience includes representation of both public and private clients, particularly in CEQA and environmental matters.

In his spare time, Davin loves backpacking, hiking, photography, serving his synagogue, and spending as much time as possible with

his nephew and niece.

INSIGHTS

Renewable Energy Project Credit Payments: Action Required

PUBLICATIONS

NEPA Narrowed: Clearing the tracks for focused environmental reviews

San Francisco v. EPA: Requiem for receiving water limitations?

REPRESENTATIVE MATTERS

CEQA/Land Use/Planning

- Advises agencies on CEQA compliance strategies and approaches; review and redline of draft CEQA documents and legal compliance analysis; representation and attendance at public approval hearings and closed session meetings. Experience includes developing Master EIRs, CEQA exemption documents, supplemental CEQA documents, and providing CEQA counsel on multiple projects.
- Litigates both CEQA defense and CEQA prosecution cases, including demurring to meritless CEQA cases and achieving meaningful and worthwhile settlement of CEQA cases. Experience includes both defending local agencies against unripe and meritless CEQA actions and prosecuting CEQA cases to secure more favorable mitigation measures and compliance with state law.
- Analysis of agency codes and ordinances for proposed revisions and incorporation of CEQA and land use streamlining mechanisms, particularly for community planning issues and ministerial decision-making.

Public Contracting/Public Records/Brown Act

- Analysis and counsel regarding public contracts and contracting, particularly contracts and projects involving public infrastructure, natural resource/flood/wildfire management, technology and software contracts, professional consultant contracts, and easement and right-of-way issues. Extensive experience with CEQA, stormwater, sewage, soil and groundwater, and other environmental contracts, as well as technology and information technology contracts.
- Advise agencies regarding compliance with California Public Records Act requests and review of disclosable documentation and coordination with agency staff. Experience includes negotiations to narrow scope of overbroad requests, analysis of thousands of documents, and successfully working with agency staff to avoid litigation.

- Provide counsel to local agencies regarding open meetings laws, including Brown Act and attend, provide counsel, and ensure compliance at public meetings, including Planning Commission and related meetings. Experience includes attendance and counsel at City Council meetings, Planning Commission meetings, closed session meetings, and specialty committee meetings, such as view assessment meetings and regional water quality regulatory meetings.

Clean Water Act/Water Quality/Flood Control

- Represents agencies in defending against Clean Water Act citizen lawsuits and brokering viable settlements, as well defending agencies in administrative enforcement actions by the California State Water Resources Control Board and the California Regional Water Quality Control Boards in NPDES, Water Code, and related issues. Experience includes negotiation and settlement of multiple NGO-initiated Clean Water Act citizen lawsuits pertaining to stormwater and sanitary sewer overflow events and NPDES issues, as well as negotiation with regulators on best management practices, supplemental environmental projects, and administrative compliance orders.
- Represents agencies in permitting matters before the California State Water Resources Control Board and the California Regional Water Quality Control Boards, including stormwater permitting, nutrients management, sewage discharge and land application, and recycling and nature-based solutions projects. Experience includes negotiation with regulators on NPDES permit renewals for stormwater and sanitary sewer agencies, coordination with regulators and other affected agencies on the introduction of new permits and new permit requirements, and attendance and advocacy at regulatory agency public meetings.
- Advice to public and private parties regarding wetlands and other Clean Water Act jurisdictional issues, including advice to hospitals, schools, and cities on wetlands and federal and state waters determinations on current or prospective properties.

Landfills/Hazardous Waste/CERCLA

- Counsel to agencies regarding regulatory management and compliance for active and closed landfills, including consultations and negotiations with LEAs, CalRecycle, the California State Water Resources Control Board and the California Regional Water Quality Control Boards, the Department of Toxic Substances Control (DTSC), and affected private parties. Experience includes negotiations and coordination on complex multiparty matters involving historic landfills and disturbances to closed landfills, responding to flood- and fire-related impacts to landfills, and examination of title and

ownership issues involving active and closed landfills.

- Represent agencies in responding to regulatory orders from state and federal agencies regarding investigation and remediation of properties contaminated with hazardous waste and negotiation of obligations and expenses with other responsible parties. Experience includes responding to CalRecycle and LEA instructions for maintenance of hazardous waste sites, as well as more complicated negotiations involving Regional Water Quality Control Board investigative and remediation orders, including cost-sharing, consultant, and liability issues.
- Advise agencies regarding industrial safety ordinances and related policies, including drafting of proposed ordinances and counsel at related public hearings and agency meetings.
- Counsel to multiple public agencies, including parks, schools, and cities, regarding acquisition of contaminated properties and performance of Phase 1, Phase 2, and all-appropriate-inquiries analyses to secure legal protections under CERCLA and parallel state laws. Experience includes providing analysis of potential innocent purchaser defenses and counsel regarding actions needed to secure liability protections for prospective purchasers of contaminated sites, particularly for public agencies and community institutions.