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# The Administrative & Public Environmental Law Conference

FRIDAY, JUNE 12, 2015

UC Hastings College of the Law  
198 McAllister St.  
San Francisco, CA 94102



We gratefully acknowledge UC Hastings College of the Law for the contribution of its facility and generous support for this event

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Register Online: <http://publiclaw.calbar.ca.gov>

# PROGRAM

8:00–8:15 a.m.

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## Registration & Continental Breakfast

8:15–8:30 a.m.

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## Welcome & Opening Remarks

Dean Elizabeth L. Hillman, *U.C. Hastings Provost and Academic Dean*

8:30–9:45 a.m.

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## How to Successfully Navigate Administrative Agencies

This session will provide nuts and bolts advice on how to most effectively participate in agency proceedings to assure that adequate records are produced and effective presentations are made before administrative agencies. The panel will consist of agency and general counsels who will advise on how best to advocate in front of various agencies and will focus on agency rulemakings as well as adjudications, such as licensing, and enforcement proceedings. The panel will also discuss concerns involving ex parte contacts with board and commission members, including recent high-profile cases involving such contacts.

### Speakers:

Michael Lauffer, *Chief Counsel, California State Water Resources Control Board*  
Peter Allen, *Senior Staff Counsel, California Public Utilities Commission*  
Ellen Peter, *Chief Counsel California Air Resources Control Board*  
Elliot Block, *Chief Counsel, CalRecycle*

9:45–11:00 a.m.

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## Current Developments in CEQA Law and Practice

This session will cover cutting-edge CEQA issues, focusing on recent and pending California Supreme Court cases. Highlights include the “reverse CEQA” issue, baseline, exceptions to the use of categorical exemptions, the proper approach to GHG analysis, the effect of fiscal constraints on the duty to mitigate impacts, whether increased demand for emergency services is an environmental impact, the standard of review applicable to changes in a project that has already undergone review, whether post-comment period correspondence count toward exhaustion, and the scope of relief when there is a CEQA violation.

### Speakers:

M. Katherine Jenson, *Rutan & Tucker*  
Anna Shimko, *Burke, Williams & Sorensen*  
Ellison Folk, *Shute, Mihaly & Weinberger*  
Shaye Diveley, *Meyers/Nave*

11:00–11:10 a.m.

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## Break

11:10–12:25 p.m.

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## Preparing the CEQA Administrative Record

What goes into (and what stays out of) the administrative record prepared in California Environmental Quality Act (CEQA) litigation is one of the most difficult and controversial topics facing practitioners. What is required? What may be excluded? What is privileged? What about emails? What if a Public Records Act request is filed concurrently? Who pays for it all? Panelists will also provide advice on the use of joint-

# SCHEDULE

defense agreements to maintain privileges between agency and applicant counsel communications involving scoping potential mitigation measures and responding to comments. This session will address recent case law answering these questions and provide practical tips for compliance.

**Speakers:**

Nicole Gordon, *The Sohagi Law Group*

Sarah Owsowitz, *Best, Best & Krieger*

Antonio Rossmann, *Rossmann and Moore and U.C. Berkeley School of Law*

Amanda Monchamp, *Holland & Knight*

**12:30–1:45 p.m.**

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**Luncheon Keynote: Is It Time for California Administrative Law Reform?**

Professor Asimow received both UCLA's Distinguished Teaching Award and the Rutter Award for Excellence in Teaching. He is a renowned expert in administrative law, having published leading treatises and authoritative articles on the subject.

**Speaker:**

Professor Michael Asimow, *Visiting Professor of Law at Stanford University, Professor of Law Emeritus at UCLA*

**1:45–3:15 p.m.**

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**S.B. 743 and the Ever-Changing CEQA Landscape**

Local governments have long used "level of service" (LOS) standards to measure potential transportation impacts of development projects and long range plans in the CEQA context. In recent years, however, some local governments have abandoned LOS, or accepted lower LOS, to avoid its unintended consequences, i.e., discouraging both infill development and construction of infrastructure for transit, cycling, and walking. Senate Bill (SB) 743 (Steinberg, 2013) requires the Governor's Office of Planning and Research (OPR) to amend the CEQA Guidelines to provide an alternative to LOS for evaluating transportation impacts. This session will address the status of those amendments, as well as the arguments for and against the most controversial alternative proposals.

**Speakers:**

Christopher Calfee, *Senior Counsel, Office of Planning and Research*

Cecily Barclay, *Perkins Coie*

Andrea Ruiz-Esquide, *San Francisco City Attorney's Office*

Ethan Elkind, *Associate Director, Climate Change & Business Program, U.C. Berkeley School of Law, Center for Law, Energy & the Environment*

**3:15–4:45 p.m.**

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**The Effects of California's Drought on Public Entities**

This session will focus on legislative and regulatory developments resulting from California's long-standing drought, including from the State and Local Water Boards and local entities. Panelists will provide advice and discuss the enforcement of programs to limit watering, diversions, and code enforcement. The session will also address current water law rights and usage priorities, including the State's recent assumption of jurisdiction over groundwater rights and any anticipated changes to these laws.

**Speakers:**

Scott Morris, *Kronick, Moskovitz, Tiedemann & Girard*

Dorene D'Adamo, *Board Member, State Water Resources Control Board*

Eric Garner, *Best, Best & Krieger*

# REGISTRATION INFORMATION

**Online registration:**

<http://publiclaw.calbar.ca.gov>

**Mail To:**

Program Registrations, The State Bar of California,  
180 Howard Street  
San Francisco, CA 94105

**Fax to:**

Program Registrations at (415) 538-2368, in order to fax your registration, credit card information is Mandatory.

**Cancellations and Deadlines:**

Cancellations and request for refunds must be received in writing by June 5, 2015 and are subject to a \$25 service charge. Substitute registrants are allowed but must register in their own name at the meeting to receive MCLE credit.

**Onsite Registration:**

Limited and subject to availability. Call to confirm space availability. Please register in advance.

**Special Assistance:**

For special assistance please call (415) 538-2248.

**Questions:**

For registration questions please call (415) 538-2508. Telephone registrations will not be accepted. For program content and/or section information please call (415) 538-2248.

**CYLA MEMBERS:** (All CA members that have been in practice 5 years or less OR are 36 years old or younger)

Now offering 25% off registration. Call (415) 538-2248 for more information.

## PROGRAM PLANNING COMMITTEE

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John Appelbaum  
Christopher Diaz  
Justine Block  
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Scott Smith  
Nelson Chan  
Rachel Sommovilla  
Ryan Baron

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**Julie Martinez**

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**Environmental Law Executive Committee Members**

Nicole H Gordon  
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Administrative & Public Environmental Law Conference  
Friday, June 12, 2015 • San Francisco, CA

# REGISTRATION FORM

Note: One registrant per form. Photocopies may be used.

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Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

(Required for email confirmation)

Check here if you do not want your information released.

Program package materials includes 7.75 hours of MCLE program materials, continental breakfast and lunch.

## REGISTRATION BY JUNE 5, 2015:

- \$175 for Section members
- \$225 for Non-Section members
- \$150 for Paralegals/Non-attorneys
- \$100 for Full-time Law Students
- \$225 All Registrations After June 5, 2015

**AMOUNT ENCLOSED OR TO BE CHARGED**

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**Deadline:** In order to pre-register, your form and check, payable to The State Bar of California, or credit card information, must be received no later than June 5, 2015.

**Register Online:** <http://publiclaw.calbar.ca.gov>

**Mail To:** Program Registrations, The State Bar of California,  
180 Howard Street, San Francisco, CA 94105.

**Fax To:** Program Registration at 415-538-2368. In order to fax your registration, credit card information is MANDATORY.  
**(Photocopies of checks will NOT be accepted.)**

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