

## Selected CEQA Litigation Experience (Partial Listing)

**City of Santa Clarita v. County of Los Angeles** (2004), USDC, Case No. CV-04-7355 AHM (FMOx). Representing CEMEX as a real party in interest against claims brought against the Soledad Canyon Project under the California Environmental Quality Act. (Permitting efforts and litigation have been ongoing for more than 10 years. Federal and local approvals have been issued, with one pending lawsuit to be resolved. JMBM represents CEMEX on a number of land use and litigation matters for its construction materials projects throughout California, including the Soledad Canyon project—the largest federally-contracted aggregate project in the United States).

**City of Santa Clarita v. U.S. Department of Interior** (2004), USDC, Case No. CV-04-1572; U.S. Court of Appeals, Case Nos. 06-55225 and 06-55960 (2006). Successfully litigated for CEMEX's award of attorneys' fees for bad faith litigation against an environmental plaintiff and the fee award was upheld on appeal to the Ninth Circuit.

**SES Terminal, LLC v. The Port of Long Beach; Board of Harbor Commissioners of the City of Long Beach; City of Long Beach, et al.** (2008), Los Angeles Superior Court, Case No. BS107298. Represent Mitsubishi Corporation and Conoco Phillips in CEQA litigation regarding proposed LNG Receiving Terminal in Long Beach.

**Monterey Hills Investors, LLC v. City of Los Angeles; City Council of the City of Los Angeles** (2007), Los Angeles Superior Court, Case No. BS110114. Represent developer against city imposed requirement for a subsequent EIR prior to grading.

**Hillside Environmental and Safety Coalition v. City of Los Angeles; Regional Housing Development, Godwin Iwunze and Neil Smith, Real Parties in Interest** (2007). Defended MND and defeated opponent's claim that project may have potential environmental impacts and additional traffic to narrow streets within a hillside area.

**Sierra Club v. U.S. Gypsum Co.** (2007). Represent U.S. Gypsum in a CEQA challenge to its \$100,000,000+ facility modernization and expansion. Prevailed in trial court, matter pending appeal.

**Meruelo-Maddux Ponte Vista v. Los Angeles Unified School District; Los Angeles Unified School District Board of Education** (2006), Los Angeles Superior Court, Case No. BS101936; Court of Appeal, Second Appellate District, Case No. B196009 (2007). Represent developer in challenge to school district EIR for development of high school at Taylor Yard (Los Angeles).

**Center for Biological Diversity v. U.S. Fish and Wildlife Service**, 450 F.3d 930 (9<sup>th</sup> Cir. 2006). On behalf of Cemex, successfully intervened in the lawsuit brought by the Center for Biological Diversity alleging various endangered species violations by the U.S. Fish and Wildlife Service, which eventually resulted in a Ninth Circuit published decision upholding the validity of the agency's actions.

**Eastwood Coalition v. City of Los Angeles, et al. (Larry Bond, Bond Company, Real Parties-in-Interest)** (2006). Represent developer Larry Bond and Bond Company in successful defense of land use project approvals in a court challenge brought by opponents including environmental CEQA challenge.

**Citizens United to Preserve Historic Arnaz Drive v. City of Beverly Hills (Chateau Arnaz)** (2001), Los Angeles Superior Court, Case No. BS067167. Represent developer in legal challenge brought by neighbors against project approvals claiming EIR to be inadequate for the demolition of apartment buildings and the construction of a new residential condominium project on property within a historic district.

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**Cadiz Land Company, Inc. v. Rail Cycle, L.P.; County of San Bernardino**, 83 Cal.App.4th 74 (2000), San Bernadino Superior Court, Case No. BCV02340 consolidated with BCV02341; Court of Appeal, Fourth District, Case No. E024373 (2003). Represented publicly-held agricultural and water development company in challenge to EIR/EIS prepared for the Rail Cycle/Bolo Station Landfill proposed by Waste Management, Inc. in the County of San Bernardino.

**Hollywood and Vine Development v. Los Angeles Community Redevelopment Agency** (1999), Los Angeles Superior Court, Case No. BS058279. Represent owner of commercial office buildings in legal challenge to neighboring project based upon inadequate parking analyses in the EIR.

**Palisades Beach Property Owners Association v. State of California (Caltrans), City of Santa Monica** (1999), Los Angeles Superior Court, Case No. BC220026. Represent group of residents along Pacific Coast Highway in legal challenge to the environmental clearance for a public project which resulted in traffic endangerment to the residents.

**William Robinson v. City of Manhattan Beach** (1998), Los Angeles County Superior Court, Case No. BS052995. Represent adjacent property owner in challenge to Mitigated Negative Declaration for zoning variance.

**Rescue Our Canyons v. Los Angeles County Metropolitan Transportation Authority** (1998), United States District Court, Central District, Case No. 96-2078/JGD. Represented MTA in defense of challenge to Red Line extension of Metro Rail subway on alleged grounds that Supplemental EIR/EIS was required.

**Stanley Weiss, et al. v. City of Los Angeles** (1993), Los Angeles County Superior Court, Case No. BC085387. Represented large shopping center owner in challenge to City's decision to prepare an Addendum rather than a Supplemental EIR.

**Save Our Residential Environment v. City of West Hollywood** (1992), 9 Cal.App.4th 1745, 12 Cal.Rptr.2d 308, Los Angeles County Superior Court, Case No. BC009607. Represented petitioners in challenge to EIR for proposed high-rise residential condominium near single-family homes.

**Duke Development v. City of Los Angeles** (1992), Los Angeles County Superior Court, Case No. BC050172. Represented property owner in challenge to City's decision to approve a Negative Declaration for the adoption of General Plan amendments throughout the northeast San Fernando Valley.

**Friends of LaVina v. County of Los Angeles (Southwest Diversified, Inc.--Real Party in Interest)** (1991), 232 C.A.3d 1446, Los Angeles Superior Court; California Court of Appeal. Successfully represented property owner in defending EIR being challenged by an environmental group based on a claim that the County's procedures "tainted" the EIR because it was prepared by a consultant retained by the developer. Court of Appeal held that so long as County used its own independent judgment in approving the EIR the process was valid.

**Jama Construction Corp. v. City of Los Angeles**, 938 F.2d 1045 (9<sup>th</sup> Cir. 1991), Los Angeles County Superior Court, Case No. C709806. Represented property owner in challenge to city's decision to require EIR for "haul route" on condominium project subsequent to project approval pursuant to a Mitigated Negative Declaration.

**Kalman v. City of Los Angeles (Gura)** (1991), Los Angeles County Superior Court, Case No. BC041730. Represented property owner in defense of City's decision to approve Mitigated Negative Declaration for medical office building.

**Transportation Leasing, et al. v. State of California, et al.** (1989), United States District Court, Central District, Case No. 89-7368-WMB. Defense of 29 municipalities in cost recovery and contribution action under CERCLA in connection with the cleanup of the Operating Industries, Inc. landfill located in Monterey Park, California.

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**United States of America v. Montrose Chemical Corporation of California, et al.** (1990), *United States District Court, Central District, Case No. 90-3122-AAH*. Defense of 14 municipalities in natural resource damages, cost recovery and contribution action under CERCLA for alleged discharge of pollutants into the Southern California coastal waters adjacent to the Palos Verdes Shelf.

**County of San Bernardino, et al. v. SCAQMD, et al. (Rialto Power Corporation, Real Property in Interest)**, *San Bernardino County Superior Court, Case No. CI 236 061; Court of Appeal, Fourth Appellate District, Division 2, Case No. E004 562*. Defense of waste-to-energy facility operator in companion CEQA challenges brought against the SCAQMD and the City of Rialto to set aside decisions to grant application to construct a resource recovery facility.

**Mullholland Tomorrow v. Los Angeles Board of Building & Safety Commissioners (Sahadi)** (1993), *Los Angeles County Superior Court, Case No. BC009610*. Represented developer in defense of City's decision not to require supplemental EIR for issuance of grading permits for residential subdivision.

**Richman v. City of San Buenaventura (Keller Equities)**, *Ventura County Superior Court, Case No. 178796*. Represented developer against a homeowner challenge to EIR for residential subdivision.

**California Sportfishing Protection Alliance v. Mathews Readymix, LLC**, *Case No. 2:06-CV-0505-MCE-GGH*. Litigation challenging stormwater discharges. Permitting efforts and litigation have been ongoing for more than 10 years. (JMBM represents Eagle Materials Inc. and its wholly-owned subsidiaries, Western Aggregates LLC, Mathews Readymix LLC, and Nevada Cement Company on a wide range of environmental matters. JMBM represents Eagle on various permitting issues relating to the Yuba Goldfields, Yuba California (the largest deposit of construction aggregates in the western United States) including waste discharge requirements ("WDRs") under the Porter-Cologne Act, air quality permitting issues, Army Corps Clean Water Act Section 404 permitting, and related matters).

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