

Clark Morrison

PARTNER

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Overview

Clark Morrison has 30 years of experience in the permitting and development of large and complex development projects. His clients include residential and commercial developers, renewable energy developers, public agencies (universities, water districts, airports, cities, and counties), mining companies, and wineries and other agricultural concerns. Clark's areas of experience include all State and Federal laws affecting the development of real property. He is recognized nationally for his concentration in federal endangered species, wetlands, water law, public lands, and other natural resource laws, and works on the largest habitat conservation planning efforts in the western United States.

Clark is co-author of *Natural Resource Regulation in California*, the State's leading treatise on natural resource law and agency permitting. Clark speaks and writes regularly on land use and natural resource matters, and has served as adjunct lecturer on these subjects at the U.C. Berkeley School of Law. In 2017, he was named "Natural Resource Lawyer of the Year (San Francisco)" by the nationally-respected publication, *Best Lawyers*, and he is regularly recognized by that publication for his work in the areas of land use, natural resources and real estate law.

Land Use and Development

Clark's statewide land use practice is focused on the entitlement, defense, and development of mixed-use master-planned communities. He advises many of the largest developments in California, including several projects with proposed build-outs of

Practice Areas

Commercial Real Estate
Transactions

Environmental

Land Use

Master-Planned Development

Natural Resource Permitting and
Conservation

Real Estate

Real Estate Sectors

Affordable Housing

Industrial

Mixed-Use

Multifamily

Office

Residential, Mixed-Use
Development & Homebuilding

between 10,000 and 25,000 dwelling units. He was a pioneer in the evolution of California's laws requiring evaluation of water supply resources in connection with new development. Clark is skilled in all aspects of land development, from the preparation of specific plans and environmental impact reports and the negotiation of development agreements, to the defense and settlement of complicated multi-party CEQA lawsuits, and ultimately to the implementation of fully permitted projects through the finance, mapping, and construction processes.

Wetlands and Endangered Species

Clark is one of the nation's leading attorneys in wetlands and endangered species regulation. He advises a broad spectrum of clients in this area, including land developers; alternative energy companies; mining and agricultural interests; and public agencies such as water districts, cities, and counties; and mining and agricultural interests. Clark helps his clients negotiate the approval processes of the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the California Department of Fish and Game, U.S. Environmental Protection Agency and California's Regional Water Quality Control Boards. His experience includes permitting and litigation under Sections 401 and 404 of the Clean Water Act, Sections 7 and 10 of the Endangered Species Act, the Migratory Bird Treaty Act, the Marine Mammal Protection Act, and Sections 2081 and 1602 of the California Fish and Game Code. He has participated in the development of numerous large-scale habitat conservation plans, natural community conservation plans, and mitigation banks. He is presently handling some of California's most complex wetlands and endangered species matters. As a result of this work, Clark is a recognized authority on the National Environmental Policy Act (NEPA), having managed the preparation of numerous environmental impact statements and other NEPA documents.

California Water

Clark is the firm's primary resource on water rights and related issues. He regularly advises water districts, cities, counties, other public agencies, developers, industrial concerns, and agricultural interests in all aspects of water law. His matters include water rights permitting, water transfers, conjunctive use arrangements, wastewater treatment and reuse, urban water management planning, water supply/demand evaluations under SB 610 and SB 221, infrastructure development and finance, and all other matters associated with the development, use, management, and transfer of water resources. He is also experienced in handling the myriad state and federal regulatory structures affecting the use of water, including the state and federal Endangered Species Acts, Magnussen-Stevens, the Clean Water Act, the Porter-Cologne Act, and other laws.

Bar & Court Admissions

State Bar of California

Education

J.D., University of California, Berkeley School of Law, 1987

B.A., University of California, Berkeley, 1984

Experience

Defeated a challenge to plan approvals challenging compliance with State Density Bonus laws on behalf of master developers.

Advised a developer in response to litigation challenging adequacy of water supply assessment.

Assisted landowners in securing entitlements for a 1.5 million square foot retail project in the City of Livermore. Obtained trial court victory in CEQA, Williamson Act, and Community Facilities District litigation filed against the project by neighboring commercial landowners.

Defeated CEQA and Water Supply Assessment Law action challenging mixed-use development project.

Defeated challenge on behalf of master developers to plan approvals challenging compliance with State Density Bonus laws.

Obtained favorable trial court ruling for client defending CEQA challenge by competing business owners.

Represented a developer in the development of a 140,000 square foot commercial center, including CEQA litigation.

Represented a developer of a water-oriented master-planned community consisting of 11,000 homes, several million square foot employment center, and golf courses, eco-restoration, and other recreational amenities on an approximately 5,000 acre tract in the San Joaquin Delta. Representation included environmental review securing land use entitlement, and defending the project, including earlier proposals, from multiple CEQA compliance lawsuits.

Represented developers in the development of a 1,000-home golf course community in the City of Vacaville, including environmental review and securing project entitlements as well as defending the project against a referendum effort and litigation from several opponents.

Represented an engineering firm in multimillion dollar claims arising out of construction of a cap on a former landfill site together with a new municipal golf course. Case involved novel issues of dredge spoils reuse and settled following partial summary judgment victory.

Represented a county in defense of multi-party CEQA action alleging inadequate water supply analysis.

Represented a group of developers with projects in Rancho Cordova against challenge of federal approvals on NEPA, Endangered Species Act, and Clean Water Act grounds.

Represented homebuilders with residential projects in the Sunrise Douglas Community Plan Area in the City of Rancho Cordova in connection with challenges brought under NEPA, the federal Endangered Species Act, and the Clean Water Act.

Represented the a city in both state and federal court in connection with challenges brought by environmental groups under CEQA, NEPA, and the California and federal Endangered Species Acts.

Represented the University of California in the state and federal natural resource permitting for the 10th UC campus to be located on vernal pool grassland habitat in Eastern Merced County.

Insights

News

Forty-One Cox Castle Lawyers Named to 2023 Best Lawyers® List
Press Release, *Best Lawyers*, 8.18.22

Thirty-Four Attorneys Named 2022 California Super Lawyers
Press Release, *Super Lawyers*, 8.1.22

35 Cox, Castle & Nicholson LLP Lawyers Named to 2022 Best Lawyers® list
Press Release, *Best Lawyers®*, 8.19.21

Nine Attorneys Named Northern California Super Lawyers
Press Release, *Super Lawyers*, 7.7.21

4 Cox, Castle & Nicholson LLP Lawyers named to 2021 Best Lawyers® “Lawyer of the Year”
Press Release, *Best Lawyers®*, 8.21.20

32 Cox, Castle & Nicholson LLP Lawyers Named to 2021 Best Lawyers® list
Press Release, *Best Lawyers®*, 8.21.20

Fourteen Attorneys Named Northern California Super Lawyers
Press Release, *Super Lawyers*, 7.1.20

Scott Birkey and Clark Morrison Interview In GlobeSt. Article - Why Waters Regs Matter To Developers
News, *GlobeSt.com*, 2.28.20

Twenty-Nine Cox, Castle & Nicholson Attorneys Have Been Selected for the 2020 Edition of The Best Lawyers in America®.
Press Release,

The Best Lawyers in America®, 8.16.19

Fourteen Cox, Castle & Nicholson Attorneys Recognized As 2019 Northern California Super Lawyers & Rising Stars
Press Release, *Super Lawyers*, 7.15.19

Clark Morrison Featured In GlobeSt.com Article - EPA Proposes Rollback Of Wetlands Protections
News, *GlobeSt.com*, 1.4.19

Clark Morrison Interviewed In American Infrastructure Magazine
News, *American Infrastructure Magazine*, 10.10.18

Twenty-Six Cox, Castle & Nicholson Attorneys Have Been Selected for the 2019 Edition of The Best Lawyers in America®.
Press Release,

The Best Lawyers in America®, 8.15.18

Fifteen Cox, Castle & Nicholson Attorneys Recognized As 2018 Northern California Super Lawyers & Rising Stars
Press Release, *Northern California Super Lawyers*, 7.13.18

Cox Castle Nicholson Named to The Legal 500 United States 2018 Series
Press Release, *Legal 500*, 6.4.18

Twenty-Three Cox, Castle & Nicholson Attorneys Have Been Selected for the 2018 edition of The Best Lawyers in America®.
Press Release, *The Best Lawyers in America®*, 8.15.17

Ten Cox, Castle & Nicholson Attorneys Recognized As 2017 Northern California Super Lawyers & Rising Stars
Press Release, *Northern California Super Lawyers*, 7.7.17

Eleven Cox, Castle & Nicholson Attorneys Recognized As 2017 Northern California Super Lawyers & Rising Stars
Press Release, 7.7.17

Scott Birkey and Clark Morrison Quoted in Law360 - Calif. Bracing For Potential EPA, Clean Water Act Changes
News, *Law360*, 1.12.17

Twenty-One Cox, Castle & Nicholson Attorneys Have Been Selected for the 2017 edition of The Best Lawyers in America®.
Press Release, *The Best Lawyers in America®*, 9.12.16

Twenty-Two Cox, Castle & Nicholson Attorneys Have Been Selected for the 2017 edition of The Best Lawyers in America®.
Press Release, 9.12.16

Clark Morrison was named the 2017 Natural Resources Law “Lawyer of the Year” in San Francisco by The Best Lawyers in America®.
Press Release, *The Best Lawyers in America®*, 9.12.16

Eleven Cox, Castle & Nicholson Attorneys Recognized As 2016 Northern California Super Lawyers & Rising Stars
Press Release, *Northern California Super Lawyers*, 7.8.16

Twenty Two Cox, Castle & Nicholson Attorneys Recognized As 2016 Best Lawyers In America
Press Release, *Best Lawyers in America*, 8.17.15

California Land Use Stories To Watch In 2015
News, *Law360*, 7.16.15

11 Cox Castle Attorneys Named 2015 Northern California Super Lawyers
News, *Super Lawyers*, 7.7.15

States Challenging Federal Clean Water Rule
News, *Daily Journal*, 7.6.15

5 Ways Calif. Water Restrictions Are Affecting Real Estate
News, *Law360*, 5.11.15

4 Worries For Wind, Solar In California Conservation Plan
News, *Law 360*, 10.27.14

20 Cox, Castle & Nicholson Attorneys Recognized as 2014 Best Lawyers
Press Release, 7.18.14

41 Cox, Castle & Nicholson Attorneys Recognized As 2014 Super Lawyers
Press Release, 7.17.14

Nine San Francisco Attorneys Listed For 2013 Top 100 Attorneys In Northern California
Press Release, *Super Lawyers*, 7.1.13

Twenty-three Cox Castle & Nicholson LLP Attorneys Are Selected To Be Published In The 2012 Super Lawyers Business Edition
Press Release, 9.4.12

R. Clark Morrison Named a Top Real Estate Lawyer for 2012
News, *Daily Journal*, 8.15.12

Eight Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2012 Northern California Super Lawyers
Press Release, *Super Lawyers*, 7.6.12

Environmentalists Sue To Protect Salamander
News, *Daily Journal*, 4.11.12

Environmental And Land Use Groups Ranked Top In Northern California By The Recorder
Press Release, *The Recorder*, 4.11.12

Fourteen Lawyers from Cox, Castle & Nicholson, LLP are Selected to be Included in The Best Lawyers in America 2012.
Press Release, *Best Lawyers in America*, 11.8.11

Twenty-three Cox Castle & Nicholson LLP Attorneys Are Selected To Be Published In The 2011 Super Lawyers Business Edition
Press Release, 9.1.11

Lawyers See Tactic in Trade Group Win
News, *Daily Journal*, 6.3.11

Top Land Use Attorneys
News, *Daily Journal*, 4.27.11

Seven Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2010 Northern California Super Lawyers
Press Release, *Super Lawyers*, 8.1.10

Eighteen Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2010 Super Lawyers Corporate Counsel
Press Release, *Super Lawyers*, 5.1.10

Twelve Cox, Castle & Nicholson LLP Attorneys Are Recognized By The The Best Lawyers In America® 2010 Edition
Press Release, *Best Lawyers in America*, 8.4.09

Six Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2009 Northern California Super Lawyers
Press Release, *Northern California Super Lawyers*, 7.24.09

Finding a Sunny Spot in Land Use
News, *The Recorder*, 5.20.09

Mitigating Impacts on California Listed Species Habitat
News, *Law360.com*, 5.8.09

Twelve Cox, Castle & Nicholson LLP Attorneys Are Recognized By The Best Lawyers In America® 2009 Edition
Press Release, *Best Lawyers of America*, 9.30.08

Solano County Furthest Behind on 'Smart Growth'
News, 06.15.07

Cox, Castle at Home in SF.
News, 02.28.27

Citiess, Builders face water fight
News, 02.23.07

Speaking Engagements

California Land Use Law, Policy, and Planning Conference 2022
Webinar, Online, 12.7.22

2022 California Water Law Conference
Webinar, 5/17/2022 - 5/19/2022

2021 California Water Law & Policy MCLE Conference
Webinar, 04/19/2021-04/21/2021

6th Annual California Land Use Law & Policy Conference
Webinar, 11.20.20

Navigating California's New State Wetland Policy Webinar
Webinar, 9.23.20

Changing Tides: Wetlands Permitting Rules & Regulations Under State and Federal Law
Webinar, 4.6.20

Surplus Property Roundtable
Doubletree by Hilton Hotel, Newark, CA, 02/04/20--206/20

Mid-Pacific Water Users Conference
Conference, Silver Legacy, Reno, NV, 1.23.20

2019 National Mitigation and Ecosystem Banking Conference
Conference, Hyatt Regency Minneapolis, Minneapolis, MN, 5/06/19-5/10/19

Bay Planning Coalition's Expert Briefing on the New Waters of the State Wetland Definition and Discharge Policy
Seminar, Wendel, Rosen, Black & Dean LLP, Oakland, CA, 4.25.19

2018 California Wind Energy Association Conference
Conference, Offices of Winston & Strawn, San Francisco, California, 10.25.18

Bay Planning Coalition's 6th Annual CEQA Update
Conference, Wendel, Rosen, Black & Dean LLP, Oakland, SF, 10.25.18

CLE 5th Anniversary Conference: Endangered Species Act
Sponsorship, BASF Conference Center, San Francisco, CA, 09/25/2017-09/26/2017

California Water Law & Policy Conference
Conference, Hotel Nikko, San Francisco, CA, 6.13.16

County Counsels' Association Land Use Spring Conference
5.6.16

2016 California Wetlands Conference
Conference, Hotel Nikko, San Francisco, California, 3.3.16

Habitat Conservation Planning From Tahoe To The Bay Workshop
Seminar, Ulatis Community Center, Vacaville, California, 11.18.15

3rd Annual Endangered Species Act Conference
Conference, Hotel Nikko, San Francisco, California, 9.24.15

California Land Use Law & Planning Update
Conference, DoubleTree Suites, Santa Monica, California, 1.20.15

CLEANR's Workshop Roundtable Series: Financing Habitat Conservation In Infrastructure/Development Planning
Seminar, Sacramento, California, 12.11.14

CBIA Fall Governance Meeting
Sponsorship, La Quinta Resort, La Quinta, California, 10.13.14

California Water Law And Policy Conference
Conference, Hotel Nikko, San Francisco, California, 6.19.14

California Land Use Law & Policy
Conference, Hyatt Regency Hotel, 1.9.14

CalWEA 10th Anniversary & Annual Meeting
California Wind Energy Association
Seminar, La Jolla, California, 9.29.10

CLE Land Use Law & Policy Conference
Understanding the Shifting Regulatory and Legal Landscape in California
Conference, Grand Hyatt, San Francisco, California, 9.23.10

Water Supply Impacts
CLE 5th Annual CEQA Conference
Conference, San Francisco, California, 9.21.09

Keeping Real Estate Investment from Turning to Dust: The Interaction of Water Supply Planning and Real Property
Development
2009 Annual Real Property Retreat
Conference, Lake Tahoe, California, 5.15.09

Williamson Act Contract Options and Solutions
Civil Law and Litigation 2009 Annual Conference
Conference, Monterey Plaza Hotel & Spa, Monterey, California, 4.17.09

State Climate Change Initiatives
Law Seminars International Land Use in Northern CA
Conference, San Francisco, California, 3.19.09

The New Mitigation Rule
California Wetlands CLE International
Conference, 2.26.09

New Developments

Endangered Species Act Conference CLE International
Conference, Radisson, Sacramento, California, 12.11.08

4th Annual CEQA Conference
CLE International
Conference, Los Angeles, California, 8.14.08

Federal and State Wetlands Regulations - the Emerging Issues and Trends
8.23.07

Where CEQA, CESA and ESA Meet -A Closer look at the Notomas Basin Case
8.20.07

Current Water Law and Regulations Issues Affection California's Water Picture and ..What Changes Will Global
Warming Bring?
6.11.07

Publications

Supreme Court Limits the Scope of Federal Wetland Regulations
Client Alert, 5.25.23

Stringent Well Permitting Requirements Continued With New Exemption
Client Alert, 3.28.23

Going To The Well: State Imposes More Stringent New Well Permitting Requirements
Client Alert, 7.13.22

What's All the Buzz About? Bees and Other Terrestrial Invertebrates Now Eligible for California Endangered Species
Act Listing
Client Alert, 6.3.22

Court Clarifies CEQA Cumulative Water Supply Impact Analysis Requirements
Client Alert, 2.22.22

New WOTUS Definition Coming Soon: Army Corps of Engineers and EPA Announce Proposed Rule Defining Waters of
the United States under the Clean Water Act
Client Alert, 11.24.21

Changes Are On The Horizon For Federal Natural Resource Agency Regulations
Client Alert, 11.9.21

Army Corps Issues Final Rule on New and Reissued Nationwide Permits
Client Alert, 1.19.21

Second Court Weighs in on Water Board Powers – This Time Expanding the Scope of Water Board Wetland Permitting Authority

Client Alert, 1.5.21

Court Rules Against California's Wetlands Regulatory Program

Client Alert, 12.21.20

Joshua Trees Receive Emergency Endangered Species Protection

Client Alert, 9.23.20

Is it a Crime to Kill a Mockingbird? Federal Court weighs in on the Migratory Bird Treaty Act.

Client Alert, 8.19.20

CEQA Considerations When Evaluating Impacts to Biological Resources

Article, *California Land Use Law & Policy Report*, 7.8.20

Court Narrows Ruling Regarding Nationwide Permit for Utility Crossings to Oil and Gas Pipelines

Client Alert, 5.15.20

Supreme Court Rules that Discharges to Groundwater May Be Regulated by Clean Water Act

Client Alert, 4.23.20

Court Eliminates Army Corps Nationwide Permit for Utility Crossings

Client Alert, 4.20.20

What Environmental and Real Estate Practitioners Need to Know About the Navigable Waters Protection Rule

Article, *California Environmental Law Reporter*, 4.1.20

Insight: Trump's Clean Water Act Rollback - Implication For California

Article, *Bloomberg Law*, 2.27.20

Trump Administration Dramatically Narrows Scope of Federal Wetlands Protections

Client Alert, 1.23.20

New Endangered Species Act Regulations on the Horizon

Client Alert, 8.16.19

Trump Administration Regulatory Reforms Federal Natural Resource Law

Article, *Cox, Castle & Nicholson*, 8.22.18

Got a WOTUS Challenge? Go Straight to District Court

Article, 2.12.18

California's Response to the Trumpian Rollback of Wetland Protections Under the Clean Water Act

Article, *HELJ*, 11.7.17

How California Is Filling The Void In Federal Environmental Regulation
Article, *Daily Journal*, 9.1.17

California Wind Forecast: Marketplace Uncertain
Article, *North American Windpower*, May 2013

The Army Corps of Engineers Issues New Procedures for Determining Wetland Fill Permit Mitigation Ratios
Client Alert, *CCN Client Alert*, 3.1.12

EPA and Army Corps of Engineers Issue Proposed Guidance That Would Expand Their Jurisdiction Under the Clean Water Act
Client Alert, *CCN Client Alert*, 5.6.11

New Guidance Issued on Categorical Exclusions for Streamlined NEPA Review
Client Alert, *CCN Client Alert*, 11.29.10

Take of Endangered Plants in Privately-Owned Wetlands Not Prohibited Under Endangered Species Act
Client Alert, *CCN Client Alert*, 8.27.10

A Breath Of Fresh Air - Federal Court Rejects Lawsuit Against Wetlands Fill Permit
Client Alert, *CCN Client Alert*, 6.3.10

Water Supply Assessments In California: New Court Decision Explores Reach Of SB 610
Client Alert, *CCN Client Alert*, 6.2.10

State and Federal Wildlife Agencies Struggle over California's Listing of California Tiger Salamander
Client Alert, *CCN Client Alert*, 5.6.10

It's Not Just About Water: Land Use and Other Provisions in the California Delta Water Bills
Client Alert, *CCN Client Alert*, 11.5.09

Incidental Take Authorized for Projects Benefiting Species and Their Habitat
Client Alert, *CCN Client Alert*, 10.14.09

Court Expands Corps' Jurisdiction Over Some Seaside Activity
Client Alert, *CCN Client Alert*, 10.13.09

The State Water Board Adopts Onerous New Rules for Storm Water Discharges from Construction Sites
Client Alert, *CCN Client Alert*, 9.8.09

Environmental Review Required for Affordable Housing Project Stimulus Funds under the American Recovery and Reinvestment Act of 2009
Client Alert, *CCN Client Alert*, 5.29.09

UC Merced Receives Wetlands Permit for Campus and University Community
Client Alert, *CCN Client Alert*, 5.14.09

Obama Withdraws Bush-Era Endangered Species Regulation
Client Alert, *CCN Client Alert*, 5.4.09

Ninth Circuit Provides Guidance on Triggers for Environmental Impact Statements
Client Alert, *CCN Client Alert*, 4.30.09

Court Of Appeal Issues Decision In Sunrise Douglas Litigation
Client Alert, *CCN Client Alert*, 3.26.09

Court Highlights Risk Of Violating CEQA With Water Supply Contracts
Client Alert, *CCN Client Alert*, 2.2.09

The Services Issue Final Rule Amending Section 7 Consultation Regulations
Client Alert, *CCN Client Alert*, 12.12.08

EPA And Army Corps Of Engineers Issue Revised Wetlands Guidance
Client Alert, *CCN Client Alert*, 12.4.08

California Supreme Court Upholds Bay-Delta Environmental Impact Report, Including Alternatives Analysis And Programmatic Level Of Impact Review
Client Alert, *CCN Client Alert*, 6.10.08

Floating A New Boat on the Jurisdictional Waters - Army Corps of Engineers and EPA Issue Rapanos Guidance
Article, Aug-Sept 2007

EPA and Army Corps of Engineers Issue Rapanos Guidance
Client Alert, 06.06.07

Water Supplies for New Housing Development: The California Supreme Court Wades In.
Article, 02.26.07

California Supreme Court Clarifies CEQA Requirements for Analysis of Water Supplies (PDF)
Client Alert, 02.05.07

Awards & Affiliations

Honors & Recognitions

Best Lawyers, in Land Use & Zoning Law, Litigation – Land Use & Zoning, Natural Resources Law and Real Estate Law, 2007-2023

Northern California Super Lawyers, 2004-2023

Recommended Attorney, Real Estate – Land Use/Zoning, *Legal 500 USA*, 2018

Best Lawyers, Natural Resources Lawyer of the Year in San Francisco, 2017

Professional Affiliations

Bay Area Council, Board of Directors

California Building Industry Association, Governmental Affairs Committee

The Nature Conservancy, California Leadership Council

California Wind Energy Association

California Association of Land Trusts

California Construction and Industrial Materials Association (CalCIMA)

Association of California Water Agencies

Co-Author, California Land Use treatise (CEB 2013)

Advisory Board, California Land Use Law and Policy Reporter

Adjunct Lecturer, UC Berkeley School of Law