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STEPHAN C. VOLKER

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Stephan C. Volker is proprietor of the Law Offices of Stephan C. Volker in Oakland, California. A 1974 graduate of Martin Luther King School of Law at the University of California at Davis, Mr. Volker is a member of the state and federal bars of California and Alaska and the United States Supreme Court bar. Mr. Volker is a recognized expert in several specialized fields of environmental law including water rights, water pollution, forest practices, land use planning, environmental review and agricultural land preservation. He is a frequent panelist and lecturer in environmental law, including presentations at the California Bar Association's annual Environmental Law Conference in Yosemite and its Continuing Legal Education's annual conferences on CEQA as well as conferences by Law Seminars International and CLE International on CEQA, Land Use Regulation, and Climate Change. Mr. Volker has also served as an Adjunct Professor and visiting Lecturer of Environmental Law at San Francisco and Golden Gate Law Schools.

Mr. Volker has litigated over 300 land use, water rights, forest management, endangered species, clean water, oil and gas, mining, agricultural preservation, river protection, and other environmental cases from Alaska to California since 1974. He has been the principal attorney in numerous lawsuits that have protected wilderness and wilderness candidate areas in Alaska, Montana, and California, including critical grizzly and wolf habitat in Montana's Rocky Mountain Front and Alaska's Chilkat River Valley. He has secured injunctions against logging along the Wild and Scenic Trinity, Salmon, and Eel Rivers in California, destruction of vernal pools and over-pumping of groundwaters tributary to the Cosumnes River, operation of a hazardous biowarfare lab at the Lawrence Livermore National Laboratory, damming of the Dry Creek fork of the Russian River, residential development on the slopes of the Sierra Buttes, and human harassment of killer whales. He has forced numerous industrial polluters to pay for their illegal pollution, and secured the largest civil penalty ever awarded under the citizen suit provisions of the Clean Water Act, against Union Oil Company, for pollution of San Francisco Bay.

Mr. Volker has successfully prosecuted numerous cases to protect agricultural land and wildlife habitat from urban sprawl under California's Environmental Quality Act ("CEQA"), Agricultural Land Preservation Act and Planning and Zoning Law; Washington's Growth Management Act and Shoreline Management Act; and other environmental laws. Most recently, he won a landmark decision from the California Supreme Court under CEQA requiring environmental impact reports to assure adequate water supplies and full disclosure of potential adverse impacts on rivers and wildlife.

Mr. Volker has also successfully defended the Tahoe Regional Planning Agency's and Marin County's jetski ordinances, protected Lake Tahoe from harmful marina developments and prevented unplanned urban development of the Lakes Basin near the Sierra Buttes. He protected Joshua Tree National Park from development of what would have been the world's largest landfill dump and the Marin Headlands from what would have

been Marin County's largest hotel. He prevented urban development of the Honey Springs Ranch near Jamul, an area now set aside as a wildlife preserve. He secured a substantial monetary settlement to redress oil pollution of wetlands adjacent to Suisun Bay. He won a landmark appellate ruling under the Urban Water Management Planning Act requiring urban water agencies to fully address contamination of groundwater supplies, and two precedent-setting rulings from the federal circuit court of appeals upholding the standing of cities to bring suits to protect environmental quality.

Mr. Volker's litigation has also led to the promulgation by EPA of urgently needed water quality standards for the San Francisco Bay/Sacramento-San Joaquin River Delta ecosystem, preparation of comprehensive management plans to protect the six Wild and Scenic Rivers within the Ozark National Forest, development of a comprehensive management plan for the North Cascades National Park and Lake Chelan National Recreation Area, protection of Puget Sound waters from salmon farm pollution, prevention of new water diversions that would dewater the Russian, Eel and South Fork American rivers and several High Sierra lakes, protection of the Smith Flat Valley near Placerville from premature urban sprawl, comprehensive revision of the General Plans of El Dorado and Riverside Counties, adoption of Urban Water Management Plans by Sonoma County and the cities of Sonoma and Tulare, and protection of San Francisco Bay's Point Molate and Contra Costa County's North Richmond area from development of major Indian casino resorts.

Mr. Volker's current docket includes litigation to prevent dewatering of the Russian River and overdrafting of its adjacent groundwater, protect the meadows and forests of the U.C. Santa Cruz campus from urban development, defend the Medicine Lake Highlands near Mt. Shasta against geothermal development, require mitigation of the adverse effects of industrial development of the shoreline of San Francisco Bay, protect minority communities of Richmond by overturning approval of a major casino development, protect residential areas from the harmful effects of cell antenna radiation in the Cities of Berkeley and Richmond, protect Yosemite National Park and the mountain hamlet of Wawona from a major resort development, and defend the critical habitat of endangered big horn sheep and checkerspot butterflies in the mountains of Southern California from massive power line transmission towers and related development.

From 1974 to 1977 Mr. Volker engaged in private practice in Southern California, where he represented citizens' groups, cities, and school districts in plaintiff's environmental and land use litigation, and drafted growth control initiatives for several cities. In 1977 Mr. Volker was named Director of the Sierra Club Legal Defense Fund's newly established Alaska office. From 1977 to 1980 he prosecuted environmental cases in state and federal courts in Alaska, involving forestry, mining and other public land law issues. From 1980 to 1998 Mr. Volker handled a variety of environmental and land use cases in state and federal courts in several western states from the Sierra Club (now Earthjustice) Legal Defense Fund's San Francisco, California home office. Since returning to private practice in 1998, Mr. Volker has continued to represent conservation organizations, community groups and public agencies in environmental litigation throughout the west. In addition to his successful prosecution of scores of environmental cases in state and federal trial courts and administrative agencies, Mr. Volker has successfully litigated scores of state and federal civil appeals, including the following published cases:

- ◇ *State Water Resources Control Board Cases II*, 161 Cal.App.4th 304 (private parties' rights to attorneys' fees in public interest cases - 2008)

- ✧ *Massachusetts v. Environmental Protection Agency*, ___ U.S. ___, 127 S.Ct. 1438 (Clean Air Act – 2007) (amicus brief)
- ✧ *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, 40 Cal.4th 412 (California Environmental Quality Act – 2007)
- ✧ *Pit River Tribe v. U.S. Forest Service*, 469 F.3d 768 (National Environmental Policy Act, Energy Policy Act of 2005, National Historic Preservation Act – 9th Cir. 2006) (amicus briefs)
- ✧ *Save Our Neighborhood v. Lishman*, 140 Cal.App.4th 1288 (California Environmental Quality Act – 2006)
- ✧ *State Water Resources Control Board Cases*, 136 Cal.App.4th 674 (California Water Quality Laws – 2006)
- ✧ *County of El Dorado and Voices for Rural Living v. California Department of Transportation*, 133 Cal.App.4th 1376 (California Environmental Quality Act – 2005) (depublished)
- ✧ *City of Sausalito v. O'Neill*, 386 F.3d 1186 (Standing, Marine Mammal Protection Act, Coastal Zone Management Act – 9th Cir. 2004)
- ✧ *Save Our Sunol v Mission Valley Rock Co.*, 124 Cal.App.4th 276 (Growth Control Initiative – 2004)
- ✧ *Friends of the Santa Clara River v. Castaic Lake Water Agency*, 123 Cal.App.4th 1 (Urban Water Management Planning Act – 2004)
- ✧ *City of Morgan Hill v. Bay Area Air Quality Management Dist.*, 118 Cal.App.4th 861 (California Environmental Quality Act – 2004)
- ✧ *Santa Teresa Citizen Action Group v. City of San Jose*, 114 Cal.App.4th 689 (California Environmental Quality Act – 2003)
- ✧ *City of Martinez v. Texaco*, 353 F.3d 758 (Standing, Common Law and Statutory Remedies for Oil Pollution – 2003) (trial court plaintiff's counsel and amicus brief on appeal)
- ✧ *Friends of the Eel River v. Sonoma County Water Agency*, 108 Cal.App.4th 859 (California Environmental Quality Act and Planning and Zoning Law – 2003)
- ✧ *Santa Teresa Citizen Action Group v. State Energy Resources Conservation and Development Com.*, 105 Cal.App.4th 1441 (Energy Commission Act, Due Process Clauses and Separation of Power Doctrines of U.S. and California Constitutions – 2003)
- ✧ *Personal Watercraft Coalition v. Marin County Board of Supervisors*, 100 Cal.App.4th 129 (Due Process and Commerce Clauses of U.S. and California Constitutions, Federal Boat Safety Act, Clean Air Act - 2002)
- ✧ *County of Amador v. El Dorado County Water Agency*, 76 Cal.App.4th 931 (California Environmental Quality Act – 1999)
- ✧ *Lake Tahoe Watercraft Recreation Ass'n. v. Tahoe Regional Planning Agency*, 24 F.Supp.2d 1062 (Tahoe Regional Planning Agency Compact - E.D. Calif. 1998)
- ✧ *Sierra Club v. United States*, 23 F.Supp.2d 1132 (Wild and Scenic Rivers Act - N.D. Calif. 1998)
- ✧ *Newton County Wildlife Ass'n v. Rogers*, 113 F.3d 110 (Wild and Scenic Rivers Act - 8th Cir. 1997)
- ✧ *Newton County Wildlife Ass'n v. Rogers*, 948 F.Supp. 50 (Administrative Procedure Act - E.D. Ark. 1996)
- ✧ *Communities for a Better Environment v. Union Oil Co. of California*, 83 F.3d 1111 (Clean

- Water Act - 9th Cir. 1996) (amicus brief)
- ✧ *North Cascades Conservation Council v. Chelan County*, EWGPHB No. 94-1-0015 (Washington Growth Management Act - 1994)
 - ✧ *Bob Marshall Alliance v. Lujan*, 804 F.Supp. 1292 (National Environmental Policy Act, Endangered Species Act - D.Mont. 1992)
 - ✧ *Garat v. City of Riverside*, 2 Cal.App.4th 259 (growth control initiative - 1991) (amicus brief)
 - ✧ *Leshner v. City of Walnut Creek*, 52 Cal.3d 531 (growth control initiative - 1990) (amicus brief)
 - ✧ *The Wilderness Society v. Tyrrel*, 918 F.2d 813 (Wild and Scenic Rivers Act - 9th Cir. 1990)
 - ✧ *Sierra Club v. Union Oil Co. of California*, 716 F.Supp. 429 (Clean Water Act - N.D. Cal. 1989)
 - ✧ *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, (National Environmental Policy Act, Endangered Species Act - 9th Cir. 1988)
 - ✧ *Sierra Club v. Union Oil Co. of California*, 853 F.2d 667 (Clean Water Act - 9th Cir. 1988)
 - ✧ *The Wilderness Society v. Tyrrel*, 701 F.Supp. 1473 (Wild and Scenic Rivers Act - E.D. Cal. 1988)
 - ✧ *Sierra Club v. Union Oil Co. of California*, 19 E.L.R. 20362, 28 E.R.C. 1835 (Clean Water Act - N.D. Cal. 1988)
 - ✧ *Greenpeace v. Evans*, 688 F.Supp. 579, 17 E.L.R. 21207 (National Environmental Policy Act, Marine Mammal Protection Act - W.D. Wash. 1987)
 - ✧ *Sierra Club v. Union Oil Co. of California*, 813 F.2d 1480 (Clean Water Act - 9th Cir. 1987);
 - ✧ *Friends of Westwood v. City of Los Angeles*, 191 Cal.App.3d 259 (California Environmental Quality Act - 1987) (amicus brief)
 - ✧ *Bob Marshall Alliance v. Watt*, 685 F.Supp. 1514 (National Environmental Policy Act, Endangered Species Act - D. Mont. 1986)
 - ✧ *Lewis v. Hayward*, 177 Cal.App.3d 103 [222 Cal.Rptr. 781] (Agricultural Land Preservation Act - 1986) (amicus brief)
 - ✧ *Sierra Club v. Union Oil Co. of California*, 22 E.R.C. 1342 (Clean Water Act - N.D. Cal. 1985)
 - ✧ *Sierra Club v. Tosco Corporation*, 22 E.R.C. 2117 (Clean Water Act - N.D. Cal. 1984)
 - ✧ *Honey Springs Homeowners Ass'n v. County of San Diego*, 157 Cal.App.3d 1122 [203 Cal.Rptr. 886] (Agricultural Land Preservation Act - 1984)
 - ✧ *Southeast Alaska Conservation Council v. Watson*, 697 F.2d 1305 (Alaska National Interest Lands Act - 9th Cir. 1983)
 - ✧ *Southeast Alaska Conservation Council v. Alaska*, 665 P.2d 544, 19 E.R.C. 1098 (Alaska Constitution, and forestry and planning statutes - 1983).
 - ✧ *Humboldt County v. Bureau of Land Management*, 684 F.2d 1276 (R.S. 2477 (public lands easements) - 9th Cir. 1982)
 - ✧ *PLAN for Arcadia v. Arcadia City Council*, 42 Cal.App.3d 712 (California Environmental Quality Act - 1974)

Mr. Volker's recent accomplishments include:

- ✧ a California Supreme Court ruling requiring cities and counties to assure adequate water supplies to new developments and to fully disclose their adverse impacts on fish and wildlife
- ✧ a Ninth Circuit ruling overturning the Department of Energy's approval of a hazardous biowarfare defense lab at Lawrence Berkeley National Laboratory
- ✧ a judgment overturning the University of California's Long Range Development Plan for the Santa Cruz Campus due to its unstudied effects on water, traffic and housing
- ✧ an order overturning the City of Richmond's approval of a Municipal Services Agreement for a massive casino development in unincorporated North Richmond
- ✧ a judgment overturning Sonoma County's Urban Water Management Plan on the grounds it violated the requirements of the Urban Water Management Planning Act for inter-agency consultation, protection of fish and wildlife uses of the Russian River, and provision for adequate surface and groundwater supplies to meet future water demand
- ✧ the first appellate court ruling enforcing the Urban Water Management Planning Act and requiring urban water agencies to remediate groundwater contamination
- ✧ two landmark appellate rulings recognizing the standing of cities to bring lawsuits to protect the environment
- ✧ a ruling overturning the federal government's approval of what would have been the world's largest landfill dump near Joshua Tree National Park
- ✧ an appellate court ruling overturning the California Department of Transportation's approval of a freeway interchange for a major casino development
- ✧ a settlement preventing construction of a major casino at Point Molate, California before required environmental studies are conducted
- ✧ an appellate court ruling overturning the State Water Resources Control Board's order allowing excessive diversions of water from the San Joaquin River and Delta
- ✧ an appellate court ruling overturning the National Park Service's approval of what would have been Marin County's largest hotel within the Golden Gate National Recreation Area
- ✧ an appellate court ruling holding that a water development project EIR must address potential impacts on other affected watersheds
- ✧ the first appellate court ruling in the nation upholding the validity of a county jetski ordinance against constitutional and federal preemption challenges
- ✧ the first appellate court ruling in the nation holding that federally licensed dams that store water for consumptive use are subject to state environmental regulation
- ✧ a ruling barring water development projects in California that are not consistent with valid local general plans
- ✧ an injunction prohibiting residential development on the slopes of the Sierra Buttes
- ✧ a ruling upholding the validity of the jetski ordinance adopted by the Tahoe Regional Planning Agency
- ✧ a ruling overturning the El Dorado County General Plan because of its failure to address low growth alternatives and watershed impacts of urban growth
- ✧ a settlement forbidding high density residential development within Yosemite National Park's historic community of Wawona

- ✧ an injunction requiring the United States Forest Service to adopt comprehensive management plans encompassing the entire watersheds of Wild and Scenic Rivers
- ✧ a consent decree against EPA requiring adoption of water quality standards for the San Francisco Bay Delta Estuary
- ✧ a settlement requiring reinstatement of a whistleblower demoted by the California Department of Fish and Game because he had reported criminal pollution improperly authorized by his supervisor
- ✧ settlement of a case against Southern Pacific Transportation Company over its toxic spill of metam sodium into the Upper Sacramento River establishing a Railroad Monitor and appointing a representative of the conservation community to participate in overseeing implementation of a forty million dollar restoration fund
- ✧ settlement of a case against Riverside County, California requiring substantial revision of its general plan to protect open space, riparian corridors and wildlife habitat
- ✧ an order from the Eastern Washington Growth Management Hearings Board invalidating Chelan County, Washington's growth management ordinances as insufficient to protect agricultural resources, riparian corridors and wildlife habitat
- ✧ an injunction requiring removal of a large private bulkhead on the Stehekin River within the Lake Chelan National Recreation Area
- ✧ an order of the Washington Pollution Control Hearings Board vacating a waste discharge permit issued for a complex of salmon net pens proposed to be constructed in the mouth of the Skagit River
- ✧ an order from the California State Water Resources Control Board disapproving a proposal to divert water from three High Sierra lakes and the South Fork American River to promote urban sprawl in western El Dorado County
- ✧ an injunction against the State of Washington which resulted in creation of a Clean Water Act permitting process to regulate operation of salmon net pens
- ✧ judgments against Union Oil Company of California resulting in the payment of the largest civil penalty and fee award in the history of the Clean Water Act (\$5.55 million)
- ✧ a judgment against the City of Rocklin, California, overturning its approval of a major regional mall because it violated the California Environmental Quality Act
- ✧ settlement of a case against the National Park Service requiring preparation of a comprehensive EIS on management plans for the Lake Chelan National Recreation Area in Washington
- ✧ injunctions in three separate suits against the Bureau of Land Management and the U.S. Forest Service prohibiting logging harmful to the South Fork Trinity, South Fork Eel and South Fork Salmon Wild and Scenic Rivers in California
- ✧ an injunction against the U.S. Forest Service requiring preparation of an EIS and full consultation under the Endangered Species Act on oil and gas leases in areas under study for wilderness designation in Montana.