

CALIFORNIA'S **TOP 50** DEVELOPMENT LAWYERS

Editors Note

This year, we decided to take a different approach. We didn't pick a list of lawyers specifically devoted to real estate deals or municipal law. Our list this year is a collection of the state's top attorneys whose work in the development arena significantly impacted projects that are helping to shape the transformation of cities.

These lawyers and the others on our list are passionate about their work, and it shows in very tangible ways.

Michael J. Carroll

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SPECIALTIES

environment, land and resources; energy and infrastructure project siting and defense



Carroll faced a thorny problem as he sought to keep on track the construction of a \$1 billion gas-fired power plant in the Coachella Valley intended to supply badly needed electricity to Los Angeles.

Fierce environmental opposition challenged the validity of emission offsets necessary to permit the project. Federal regulators conceded problems with their analysis of the offsets under the Clean Air Act. That threatened the already-granted permit.

Carroll's challenge as lead counsel for CPV Sentinel LLC, the energy company building the plant: persuade a 9th U.S. Circuit Court of Appeals panel to return the matter to the trial court where the regulators could rework their analysis — but without voiding the permit so that work on the plant could proceed. The rare action, known as remand without vacatur, was a long shot but essential to keep the project from stalling.

"There were three parts to our argument,"

Carroll said. "One, our project was vital with San Onofre [the nuclear generating station] shut down. Two, solar and wind renewables were coming on line but are inherently intermittent, so there is a key role for fossil fuels to even out the flow of electricity into the grid. And three, absent our gas-fired plant, electricity shortages would force the firing up of dirtier diesel generators with adverse health and air quality effects."

The panel recognized that the federal regulators had made a curable error and left the permit in place. Carroll's favorite line in the opinion noted that remand without vacatur was uncommon but pointed out that it had been granted in an Idaho case regarding a threatened small snail species.

"If saving a snail warrants judicial restraint," the judges wrote in an unsigned opinion, "so does saving the power supply." The case is currently back before the circuit panel.

— John Roemer