



Endangered Species & Wildlife Law

We are nationally recognized for our endangered species and natural resources experience. In addition to our knowledge of the issues, we are known for resolving disputes through careful negotiations with federal and state agencies and with the environmental community.

We represent public and private entities across sectors including state and local governments, transportation, traditional and renewable energy, agriculture, water, forestry, pesticides and commercial and residential land development.

ENDANGERED SPECIES ACT & LISTING CHALLENGES

When negotiations are not feasible, we have proven our ability to successfully advance our client's interests in court. We have advocated for clients under federal laws regarding resource and wildlife management as well as federal lands and resources, including:

- Endangered Species Act (ESA)
- National Environmental Policy Act (NEPA)
- Migratory Bird Treaty Act (MBTA)
- Bald and Golden Eagle Protection Act (BGEPA)
- Federal Land Policy and Management Act (FLPMA)
- National Forest Management Act (NFMA)
- Mineral Leasing Act
- Surface Mining Control and Reclamation Act (SMCRA)
- General Mining Act

We have extensive federal trial and appellate litigation experience representing governments, corporations, and trade associations. We possess unrivaled Supreme Court experience representing parties and amici at the petition and merits stages in ESA cases (e.g. *Ohio Forestry Association v. Sierra Club*, 118 S. Ct. 1665 (1998) ; *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995)).

We have successfully defended billion-dollar projects against Endangered Species Act challenges. (*Center for Biological Diversity v. Federal Highway Administration*, 290 F. Supp. 2d 1175 (S.D. Cal. 2003)). Nossaman is one of the few law firms in the nation to successfully challenge a species listing under the ESA and to obtain a court order, requiring the U.S. Fish and Wildlife Service to pay our client's attorneys' fees and costs. (*Endangered Species Committee v. Babbitt*, 852 F. Supp. 32 (D.D.C. 1994)). We also successfully challenged the designation of critical habitat for numerous species. (See, e.g., *Agua Caliente v. Norton*, Case No. 05-187 (C.D. Cal. Aug. 2, 2006); *Building Industry Legal Defense Foundation v. Norton*, 231 F. Supp. 2d. 100 (D.D.C. 2002)).

We have a proven track record of working cooperatively with federal, state, and local agencies and tribal governments to anticipate endangered species, natural resources and related environmental legal issues and challenges. We have earned a reputation for crafting measures and recommendations to maximize the defensibility of final environmental documentation and mitigation decisions. In doing so, our clients have established important, helpful precedent both in their approach to environmental issues and in court decisions under the ESA and related federal laws.

AT THE FOREFRONT OF ESA LAW & POLICY

We regularly counsel clients on legislative and regulatory developments. Our partners have worked both as counsel to Congressional committees on ESA amendments and represented clients in amendments to the ESA. We regularly meet with U.S. Fish and Wildlife Service officials throughout the nation to discuss policy and project level issues impacting our clients. We are well known and trusted in Washington, DC as evidenced by the number of Congressional committee chairs and ranking minority members whom have asked us for legislative drafting assistance.

LEADER IN HABITAT CONSERVATION PLAN AND NATURAL COMMUNITIES CONSERVATION PLANS COUNSELING

Nossaman pioneered the Habitat Conservation Plan (HCP) concept. We have more experience with HCPs and California Endangered Species Act Natural Communities Conservation Plans (NCCPs) than any law firm in the nation. We authored and advocated the HCP provisions of the ESA and have played a leading role in more than a dozen habitat conservation plans.

Since 1982, we have worked on several of the largest and most complex HCPs in the country including:

- The first HCP (San Bruno Mountain)
- The first large-scale, regional HCP (Metropolitan Bakersfield)
- The first combined HCP and California Natural Communities Conservation Plan (Central/Coastal Orange County)
- The controversial and politically-charged Pacific Lumber HCP
- The first county-wide HCP (San Joaquin County)
- The first tribal HCP (Agua Caliente)
- The first HCP establishing a mitigation bank providing for transfer of take authority to third parties (Kern Water Bank)
- The Balcones Canyon HCP
- The Williamson County Regional HCP
- The Hays County Regional HCP

- The Comal County Regional HCP
- The Edwards Aquifer Regional HCP

We are working on several pending HCPs including:

- Imperial Irrigation District (concerning 500,000 acre area in Imperial County)
- Chevron Lokern (concerning oil and gas operations on 200,000 acres in Kern County)
- Kern County Valley Floor (regional multi-species HCP in Kern County).
- Great Plains Wind Energy HCP
- Midwest Wind Energy Multi-species HCP
- Desert Renewable Energy Conservation Plan

DEEP EXPERIENCE IN ESA AND OTHER FEDERAL WILDLIFE LAWS

We have extensive experience assisting clients in all aspects of the ESA. Our attorneys regularly assist clients nationwide in navigating complex issues related to the Section 7 consultations. We also have helped bring to fruition innovative mitigation solutions including programmatic species conservation banks and habitat credit exchange programs. Additionally, our attorneys have assisted clients in obtaining hundreds of thousands of dollars in ESA Section 6 grant funding.

In addition to the ESA, we have been at the forefront of issues arising out of regulatory developments under the BGEPA and MBTA. We have represented clients in Washington DC on policy-level issues associated with these two statutes as well as negotiated settlement agreements resulting from enforcement actions under both laws.

Our Environment & Natural Resources Team continues to shape the law through frequent speaking engagements, published articles, and through the most active blog dedicated to endangered species issues, the Endangered Species Law & Policy blog.