

Paul S. Weiland

Partner | Orange County

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Paul Weiland is Assistant Managing Partner and a member of the Environment & Land Use Group. He has represented clients – including public agencies, publicly regulated utilities, corporations, trade associations and non-profits – in high profile, precedent setting environmental permitting, regulatory and litigation matters throughout California and across the nation.

As a thought leader in the area of environmental law and policy, Paul has published dozens of peer reviewed publications on the subject in a number of journals such as *Environmental Law Reporter*, *Harvard Environmental Law Review*, *Public Administration Review*, the *Proceedings of the National Academy of Sciences*, *BioScience* and *Conservation Biology*.

He is widely recognized for his expertise in wildlife permitting and litigation, having worked on noteworthy matters involving the Bone Cave harvestman, delta smelt, Hawaiian hoary bat, Mexican wolf, North Atlantic right whale and many other species.

Paul is one of the most innovative lawyers in his field, and has received numerous accolades from virtually every prominent legal publication and ranking body. These include:

- Energy and Environmental Trailblazer by the *National Law Journal*
- Top 100 Lawyer in California by the *Daily Journal*
- Environmental MVP by *Law360*
- Top Lawyer in the US environmental practice area by both *Chambers & Partners* and the *Legal 500*

Prior to joining Nossaman, Paul worked in the Law and Policy Section, Environmental and Natural Resources Division of the U.S. Department of Justice. There, he was lead counsel for the United States in a number of high profile trial and appellate cases. In 2004, he was awarded a Distinguished Service Award by Attorney General John Ashcroft for his role in complex litigation over management of the Missouri River.

He regularly comments on news, events and policies affecting endangered species issues in California and throughout the United States on the Firm's Endangered Species Law & Policy blog and has offered commentary on environmental matters for *Law360*, *Bloomberg Law*, *Daily Journal*, *National Law Journal*, *Capital Press*, *NPR's Air Talk*, the *Austin American Statesman*, the *Santa Fe New Mexican*, *Seafoodnews.com* and *Aquaforia*.

EXPERIENCE

LITIGATION

Maine Lobsterman's Association v. National Marine Fisheries Service, D.D.C. Case No. 21-cv-2509. Counsel of record for State of Maine Department of Marine Resources as intervenor-plaintiff challenging a biological opinion issued by NMFS with respect to the Atlantic lobster fishery and several other fisheries.

Conserve Southwest Utah v. Department of the Interior, D.D.C. Case No. 21-cv-1506. Represent Washington County, Utah as intervenor-defendant in a case challenging federal approvals for the Northern Corridor Project, a 4.5 mile highway project in Washington County north of the City of St. George, as well as for a regional habitat conservation plan.

Humane Soc'y of the United States v. Kienzle, 333 F. Supp. 3d 1236 (D.N.M. 2018). Represented New Mexico Game Commission and New Mexico Department of Game and Fish as defendants in a case alleging violation of Endangered Species Act section 9 by the Department in light of the hypothetical risk that listed jaguars and wolves could be caught in traps set for other animals (primarily coyotes). We narrowed the case with a motion to dismiss then ultimately prevailed in cross motions for summary judgment.

Union Neighbors United v. Jewell, 831 F.3d 564 (D.C. Cir. 2016). Served as lead litigation counsel for client, Buckeye Wind LLC, which was pursuing permits for a 100-turbine wind energy project in Ohio. The United States Court of Appeals for the D.C. Circuit rejected plaintiff-appellants claims that the Fish and Wildlife Service violated the Endangered Species Act in issuing an Incidental Take Permit for the project, but the court agreed with plaintiff-appellants that the Service violated the National Environmental Policy Act by failing to consider a sufficiently comprehensive range of alternatives. The matter has been remanded to the Service to conduct additional environmental analysis.

Wild Equity Institute v. City and County of San Francisco, 2015 U.S. App. LEXIS 4854 (9th Cir. March 25, 2015). Represented defendant City and County of San Francisco in an action alleging violation of section 9 of the ESA. Obtained grant of motion to dismiss action as moot as well as denial of motions for preliminary relief and summary judgment in the trial court. The Ninth Circuit dismissed the appeal as moot.

REGULATORY & COMPLIANCE COUNSELING

City of Ventura. Assist client with the development of a strategy to respond to a petition to list the Southern California steelhead under the California Endangered Species Act, including preparation of comments on the petition and development of a strategy to delay action on the listing and seek Commission direction to staff to work with stakeholders to develop a 2084 regulation.

Kern County Water Agency. Counsel client regarding the development of a \$15+ billion infrastructure project (Delta Conveyance Project) to improve water supply reliability for 25 million Californians and address seismic and climate change-related risks while fulfilling federal and state Endangered Species Act and California Environmental Quality Act and National Environmental Policy Act requirements.

City of Oakland. Special counsel to the City advising with respect to collection, storage, transportation, and disposal of hazardous materials including hazardous wastes abandoned by residents and businesses within the City. In this capacity, Nossaman is helping the City respond to an enforcement action by the California Attorney General and Alameda County District Attorney alleging violations of multiple California laws regarding the proper management and disposal of hazardous substances including by negotiating tolling agreements, settlement terms, and supplemental environmental projects.

Siskiyou County. Counsel client regarding the proposal to remove four dams on the lower Klamath River. In this capacity, we are litigation counsel to the County and are representing the County in proceedings before the Federal Energy Regulatory Commission, the California Public Utility Commission, and the State Water Resources Control Board. Engage in negotiations with the Department of the Interior, the California Natural Resources Agency, and the Klamath River Renewal Corporation. Advise client with respect to the NEPA, CEQA, and federal and state wildlife laws, including those that provide protection for the Lost River and shortnose suckers.

Dairy Cares. Worked with client team to evaluate petition to list tricolored blackbird under the California Endangered Species Act including by assessing the legal and scientific bases for the petition. Represent client in front of the California Fish and Game Commission and Department of Fish and Wildlife.

PRO BONO

Ukrainian resettlement effort. Support California businesses, non-profits, and individuals seeking to host Ukrainian refugees who entered the United States via Mexico following the Russian invasion of Ukraine by providing counseling and drafting agreements between hosts and their Ukrainian guests.

Afghan Humanitarian Parole Effort. Represent three Afghan families seeking humanitarian parole in the United States in the wake of the U.S. withdrawal from and Taliban takeover of Afghanistan.

Dennis Murphy, Ph.D. Represented noted conservation biologist Dennis Murphy in a legal challenge in federal district court to a U.S. Forest Service hazardous fuel reduction project initiated without environmental review under the National Environmental Policy Act that led the agency to halt and ultimately abandon the project.

INSIGHTS

SPEAKING ENGAGEMENTS

Speaker, "NEPA, FESA and CESA: What You Need to Know," County Counsels' Association of California Land Use Conference, San Diego, CA, 05.06.2022

Speaker, "The First 100 Days of President Biden's Environmental Policy: Revolution or Back to Basics?," Nossaman Webinar, 04.15.2021

Moderator, "Species Status," 2020 Kern County Water Summit, Bakersfield, CA, 03.04.2020

Speaker, "Promises and Challenges of Western Dam Removals: Lessons from the Lower Klamath Project," 2020 California Water Law Symposium, San Francisco, CA, 02.01.2020

Speaker, "Endangered Species Act: New and Notable Developments from the Past 12 Months," Nossaman's 2019 California Land Use Seminar, Costa Mesa, CA, 05.21.2019

Speaker, "55th Select Conference on Industry Litigation," California Building Industry Association, Carlsbad, CA, 02.23.2019

Speaker, "Section 7 Consultation – When, Why, and How Reinitiation Occurs," Association of California Water Agencies Continuing Legal Education Conference, San Diego, CA, 09.15.2016

Program Co-Chair & Speaker, "Project Review: Federal Section 7 Consultation Requirements," Law Seminars International, Long Beach, CA, 06.02.2016

Instructor, "Adaptive Management," University of California, Davis Extension, Sacramento, CA, 04.28.2015

Speaker, "CLE International's 10th Annual NEPA Conference: Legal, Practice & Policy Developments," San Francisco, 03.06.2014

Speaker, "Can Law Keep Up with Science: Resource Management in a Fast-paced World," American Geophysical Union Annual Meeting, San Francisco, CA, 12.09.2013

Speaker, "*Mingo Logan Coal v. EPA*: New Ruling on Section 404 Permitting: Practical Implications of the Decision," Law Seminars International Live Teleconference, 05.30.2013

Speaker, "Conservation Planning Under the ESA: Can We Use Lessons Learned from Development and Implementation of the Lower Colorado MSCP in the Bay-Delta?," CLE International's California Water Law Conference, Los Angeles, CA, 01.24.2013

Speaker, "Water and Climate Change in the Southwest," Southwest Climate Summit, Tucson, AZ, 06.13.2012

PUBLICATIONS

- Co-Author, "An Overview of the Listing Process Under the California Endangered Species Act," *California Fish and Wildlife Journal, CESA Special Issue*, 28-40, 07.09.2021
- Co-Author, "Revisiting *Small Populations in Jeopardy*: A Rejoinder to Börk et al.," *Environmental Law Reporter*, 07.01.2021
- Contributor, "Another Take on "Take": The Section 9 Prohibition," *Endangered Species Act: Law, Policy and Perspectives, 3rd Edition*, 06.08.2021
- Co-Author, "Fish and Game Commission Violated Law by Seeking to Protect Bees Under CESA," *Nossaman eAlert*, 11.20.2020
- Co-Author, "U.S. Alternative Energy and Power Industry - Trends & Developments," *Chambers Alternative Energy & Power 2020 Guide*, 08.01.2020
- Co-Author, "9th Circ. Sees Climate Problem but Rejects Plaintiffs' Solution," *Law360*, 02.03.2020
- Author, "Independent Scientific Review Under the Endangered Species Act," *BioScience*, 03.01.2019
- Co-Author, "High Court's Frog Decision May Limit ESA Determinations," *Law360*, 12.07.2018
- Co-Author, "Justifying ESA Listings Based on Climate Change Forecasts," *Law360*, 11.16.2016
- Co-Author, "Whiskey is for Drinking: The Never Ending Battle over California Water," *Natural Resources & Environment*, Fall 2016
- Co-Author, "The Use of Surrogates in Implementation of the Federal Endangered Species Act—Proposed Fixes to a Proposed Rule," *Journal of Environmental Studies and Sciences* 4:156-162, 04.2016
- Co-Author, "Guidance on the Use of Best Available Science under the US Endangered Species Act," *Environmental Management*, 04.29.2016
- Author, "Water Suppliers will go with 9th Circ. Flow on CWA Reading," *Law360*, 10.14.2015
- Co-Author, "Notice Period doesn't Cause 9th Circ. to Pause on ESA," *Law360*, 12.12.2014
- Co-Author, "Science and Structured Decision-Making: Fulfilling the Promise of Adaptive Management for Imperiled Species," 4(3) *Journal of Environmental Studies and Sciences* 200, 2014
- Author, "Broad Duty to Consult is New Norm Under ESA in 9th Circ.," *Law360*, 05.12.2014
- Co-Author, "9th Circuit Reminds BOEM About the Importance of Evidence," *Law360*, 03.11.2014
- Co-Author, "Court Allows EPA to Stop Ongoing Projects, Years After Permits Were Granted," *Daily Journal*, 05.28.2013
- Co-Author, "Climate Choices for a Sustainable Southwest | Assessment of Climate Change in the Southwest United States," *Island Press*, 05.2013
- Co-Author, "Listing Decisions, Conservation Agreements, and State-Federal Collaboration: A Litigation Perspective," *Endangered Species and Federalism: Effective Conservation Through Greater State Commitment*, RFF Press, 2012
- Co-Author, "A Critical Assessment of the Use of Surrogate Species in Conservation Planning in the Sacramento-San Joaquin Delta, California (U.S.A.)," *Conservation Biology*, 07.25.2011
- Co-Author, "The Route to Best Science in Implementation of the Endangered Species Act's Consultation Mandate: The Benefits of Structured Effects Analysis," *Environmental Management*, 02.2011
- Co-Author, "Ninth Circuit Ratchets Up Consultation Obligations For Federal Agencies," *American Bar Association Endangered Species Committee Newsletter*, 08.01.2008

Co-Author, "The Forest Service at Upper Echo Lake: A Cautionary Tale in California's Era of Wildfire," *Natural Resources & Environment*

HONORS & RECOGNITIONS

Named a Top 100 Lawyer by the *Daily Journal*, 2021
Environmental MVP, *Law360*, 2021
Named an Energy & Environmental Trailblazer by the *National Law Journal*, 2021
Listed, *The Legal 500 United States*, Industry Focus - Environment - Litigation, 2019-2022
Listed, *The Legal 500 United States*, Industry Focus - Energy - Renewable/Alternative Power, 2020-2022
Individual recognition for Environment, *Chambers USA*, 2017-2018
Named one of California's Top 25 Land-Use Attorneys in 2011 by *Daily Journal*
Selected to the Super Lawyers list for 2010-2018
Selected to the Rising Stars list for 2008-2009
Awarded Attorney General's Distinguished Service Award in 2005 by U.S. Attorney General John Ashcroft

COMMUNITY & PROFESSIONAL

University of California, Davis, Adjunct Faculty
American Bar Association, Section on Energy, Environment, and Resources
Harvard Law School Association, Environmental Law Section
Indiana University, School of Public and Environmental Affairs, Distinguished Alumni Council

PRACTICES

Environment & Land Use
Endangered Species & Wildlife Law
Climate Change & Resiliency
Litigation
Appellate Practice

INDUSTRIES

Energy & Utilities
Government & Public Sector
Renewable & Alternative Energy
Water

EDUCATION

Harvard Law School, J.D., 1999, Heyman Fellowship
Indiana University, Ph.D., 1996, Center for Urban Policy and Environmental Dissertation Fellowship, School of Public and Environmental Affairs Doctoral Fellowship
University of Southern California, B.A., 1992, *magna cum laude*, Phi Beta Kappa National Honor Society, All-USA College Academic Team

ADMISSIONS

California
Massachusetts
U.S. Supreme Court
U.S. Court of Appeals, Fifth Circuit
U.S. Court of Appeals, Ninth Circuit
U.S. Court of Appeals, Tenth Circuit
U.S. Court of Appeals, District of Columbia Circuit
Supreme Court of California
U.S. District Court, Central District of California

U.S. District Court, Eastern District of California
U.S. District Court, Northern District of California
U.S. District Court, Southern District of California
U.S. District Court, District of Colorado
U.S. District Court, District of Columbia
U.S. District Court, District of New Mexico
U.S. District Court, Western District of Texas