

Robert D. Thornton

Partner | Orange County

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Robert Thornton specializes in advising state and regional infrastructure authorities on environmental issues regarding large infrastructure projects. He has successfully defended more than \$12 billion in regional infrastructure improvements against federal and state environmental challenges. Rob's appellate record includes multiple victories in the Ninth Circuit, California Supreme Court and the California Court of Appeal (including original writ proceedings).

His work is well respected by his colleagues and clients who have ranked him among the nation's top environmental lawyers.

EXPERIENCE

Los Angeles Light Rail Transit Project. Lead counsel in successful defense of \$1.5 billion rail transit project in west Los Angeles in litigation through the California Supreme Court. *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, 57 Cal. 4th 439 (2013).

State Water Project. Represented respondents and real parties in successful defense of major amendments to the State Water Project water delivery contracts in multiple reverse validation cases. *Central Delta Water Agency v. Dep't. of Water Resources* (2021) 69 Cal. App. 5th 170.

Honolulu Rail Transit Project. Successful defense of 20 miles, \$5 billion Rail Transit Project in NEPA, Section 4(f) and National Historic Preservation Act litigation. *Honolulutraffic.com v. Federal Transit Administration*, 742 F.3d 1222 (9th Cir. 2014).

Arizona Dep't of Transportation - South Mountain Freeway Project. Lead counsel to ADOT in successful defense of 20-mile South Mountain Freeway Project in Phoenix against NEPA, and Section 4(f) challenges. *Protecting Arizona's Resources & Children v. FHWA*, 2015 U.S. Dist. LEXIS 187483 (D. Ariz., July 28, 2015) (granting ADOT's Motion for Summary Judgment); aff'd, 718 Fed. Appx. 495 (9th Cir. 2017).

Transportation Initiative Litigation. Successfully challenged citizens' initiative through California Supreme Court decision establishing that proposed regional highways are matters of statewide concern and are not subject to a local initiative. *Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491.

Orange County Transportation Corridor Agencies. Devised and implemented a successful environmental compliance strategy to defend against twenty state and federal lawsuits challenging \$3 billion in regional transportation improvements in Southern California. See, e.g., *Laguna Greenbelt Inc. v. United States Department of Transportation*, 42 F.3d 517 (9th Cir. 1994).

El Toro Marine Corps Air Station Land Use Initiative. Drafted and successfully defended citizens' initiative amending Orange County General Plan establishing non-aviation land uses, including Orange County Great Park, at former El Toro Marine Corps Air Station. *Songstad v. Superior Court* (2001) 93 Cal.App.4th 1202 (granting mandate petition reverse trial court and returning initiative to ballot for subsequent approval by voters).

San Diego Expressway (SR 125). Successfully obtained state and federal environmental clearances and permits for development of a 10-mile toll highway in San Diego. Subsequently successfully defended against complex state and federal litigation brought by several environmental groups on CEQA, National Environmental Policy Act, Endangered Species Act, and Clean Water Act. *Center For Biological Diversity et al. v. Federal Highway Administration*, 290 F. Supp.2d 1175 (S.D.Cal. 2003).

Pacific Lumber Company – Headwaters Forest Transaction. Served as special endangered species and real estate counsel to Pacific Lumber Company on its sale of the Headwaters Forest to the California and U.S. governments. Concurrently developed a 211,000-acre HCP - the largest private timber HCP to date and the first timber HCP to address endangered and threatened salmon.

Imperial Irrigation District Water Transfer Project. Served as environmental counsel for the IID/San Diego County Water Authority Water Conservation and Transfer Project. Work involved negotiating and obtaining federal and state environmental approvals for the nation's largest agriculture to urban water transfer project.

Central/Coastal Orange County Natural Community Conservation Plan/HCP. Represented the participating landowners in negotiations with the California Department of Fish and Game and the U.S. Fish and Wildlife Service concerning the development of the first Natural Community Conservation Plan approved in California. Efforts resulted in the establishment of a 38,000 acre habitat reserve, while allowing compatible development of public infrastructure and private projects over a large portion of Orange County.

Kern Water Bank Natural Community Conservation Plan/Habitat Conservation Plan. Counsel to public agency on NCCP and HCP regarding nation's largest groundwater storage project. Successfully defended water bank project against CEQA and other environmental challenges.

INSIGHTS

PUBLICATIONS

"U.S. Supreme Court Limits Federal Jurisdiction Over Wetlands," *Nossaman eAlert*, 06.01.2023

Author, "NEPA Rules Rewrite: It's "Back to the Future" With the Proposed NEPA Regulations," *Nossaman eAlert*, 11.09.2021

Co-Author, "NEPA is Not the Right Vehicle to Address Climate Change," *Eno Transportation Weekly*, 10.22.2021

Podcast Co-Host, "CEQA Streamlining for Transportation Projects," *Digging Into Land Use Law*, 11.25.2020

Co-Author, "Fish and Game Commission Violated Law by Seeking to Protect Bees Under CESA," *Nossaman eAlert*, 11.20.2020

Author, "NEPA Rules Rewrite: Potential Impacts on Federal-State Environmental Reviews & Studies," *Nossaman eAlert*, 08.28.2020

Co-Author, "Navigating Environmental Compliance for Public-Private Partnership Projects," *Natural Resources & Environment*, 03.01.2020

Co-Author, "Whiskey is for Drinking: The Never Ending Battle over California Water," *Natural Resources & Environment*, Fall 2016

Co-Author, "The Critical Habitat Exclusion Policy: Implications for Conservation Partnerships on Private Land," *Natural Resources & Environment, American Bar Association Section of Environment, Energy, and Resources, Volume 30, Number 1, Summer 2015*

Co-Author, "Cases Pending Before the California Supreme Court on Climate Change may Foreshadow Federal Law Challenges," *The Natural Lawyer*, 04.06.2015

Author, "Proposed Critical Habitat Rules Change Reach of the Endangered Species Act," *The Natural Lawyer*, 07.14.2014

Author, "Proposed Critical Habitat Rules Expand Reach of Critical Habitat Protections Under the Endangered Species Act," *Nossaman eAlert*, 05.13.2014

Author, "Urban Decay Still Plagues California Big-Box Retail Plans," *Law360*, 04.22.2014

Author, "9th Circuit Simplifies Enviro Process For Transit Projects," *Law360*, 03.07.2014

Author, "Habitat Conservation Plans: Frayed Safety Nets for Creative Conservation Partnerships?," *Natural Resources and Environment*, Summer 2001

Author, "Contractual Ecosystem Management Under the Endangered Species Act: Can Federal Agencies Make Enforceable Commitments?," *26 Ecology Law Quarterly* 489, 01.01.1999

SPEAKING ENGAGEMENTS

Speaker, "Recent Developments in CEQA Law & Climate Change," Orange County Bar Association's Environmental Law Section Meeting, Newport Beach, CA, 07.10.2023

Panelist, "Environment and Transportation Initiatives in the Biden Administration," Transportation Research Board's 60th Annual Workshop on Transportation Law, 09.13.2021 – 09.15.2021

Moderator, "Key CEQA Compliance Considerations for Vehicle Miles Traveled Analyses," Nossaman Webinar, 08.04.2020

Speaker, "Proposed CEQA Guidelines and Key Discussions," Nossaman's 2016 Environmental & Land Use Seminar, Costa Mesa, CA, 09.13.2016

Speaker, "Implications of Newhall Ranch," Law Seminars International, Long Beach, CA, 06.02.2016

Speaker, "The New Critical Habitat Rules; What They Mean for Habitat Conservation Plans and Project Development," CLE International's 4th Annual Conference Endangered Species Act, Austin, TX, 05.16.2016

Speaker, "2015 Environmental & Land Use Seminar," Nossaman's 2015 Environmental & Land Use Seminar, Newport Beach, CA, 09.22.2015

Program Chair & Speaker, "NEPA: Recent Case Law Developments," CLE International's 10th Annual NEPA Conference, San Francisco, CA, 03.2014

Speaker, "CEQA Baseline After Sunnyvale," California Association of Environmental Professionals Annual Conference, Huntington Beach, CA, 03.2014

Speaker, "Webinar: MAP-21 - Meaningful Reforms and Practical Implications," Nossaman Infrastructure Webinar, 07.19.2012

Program Chair & Speaker, "Recent Developments Under the National Environmental Policy Act," CLE International's 8th Annual NEPA Conference, Sacramento, CA, 01.23.2012

Speaker, "The CEQA Baseline: Practical Solutions to the Sunnyvale Morass," Nossaman's 2011 Environmental Legal Update, Santa Ana, CA, 06.09.2011

Program Chair & Speaker, "NEPA Regulations & Cases – A Primer," CLE International's 6th Annual NEPA Conference, San Francisco, CA, 01.21.2010

Speaker, "CLE International's 3rd Annual Endangered Species Act Conference," Palm Springs, CA, 05.18.2009

Program Chair & Speaker, "Climate Change, Cumulative Impacts and Compliance," CLE International's 5th Annual NEPA Conference, San Francisco, CA, 03.05.2009

COMMUNITY & PROFESSIONAL

California Building Industry Association, Member
Orange County Building Industry Association, Member
Urban Land Institute, Member

HONORS

Ranked as one of the nation's top 10 environmental lawyers by *United States Lawyer Rankings*, 2006-2020
Recognized as the "Lawyer of the Year" for Land Use and Zoning Law in Orange County by *Best Lawyers in America*®, 2022
Individual recognition for Environment in California by *Chambers USA*, 2013-2023
Included in *The Best Lawyers in America*® for Land Use and Zoning Law and Litigation - Environmental, 2021-2024
Included in *The Best Lawyers in America*® for Environmental Law, Land Use and Zoning Law, and Litigation - Environmental, 2003-2020
Listed, *The Legal 500 United States*, Industry Focus - Environment - Litigation, 2020, 2023
Selected to the Southern California Super Lawyers list, 2004-2020
Chosen as one of *Law360's* Environmental MVPs, 2016
Named to *National Law Journal's* list of "Top 50 Litigation Trailblazers & Pioneers," 2014
Named a Top Rated Lawyer in Land Use and Zoning by Martindale-Hubbell and American Lawyer Media, 2013
AV Preeminent® Peer Review Rated by Martindale-Hubbell

PRACTICES

Environment & Land Use
CEQA & NEPA
Environmental Litigation
Land Use Entitlements & Litigation
Litigation
Water Law

INDUSTRIES

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

EDUCATION

University of San Francisco School of Law, J.D., 1976, *with distinction*; Law Review
University of California, Berkeley, B.A., 1972, *with distinction*

ADMISSIONS

California
District of Columbia
U.S. Court of Appeals, District of Columbia Circuit
U.S. Court of Appeals, Ninth Circuit
U.S. District Court, District of Columbia
U.S. District Court, Eastern District of California
U.S. District Court, Southern District of California
U.S. Supreme Court