

**Andrew K. Hartzell**

Partner

Practice AreasEnvironment
Natural Resources
Land Use**Education**Stanford Law School, J.D., with
distinction, 1988University of Pennsylvania, B.A.,
The Biological Basis of Behavior,
summa cum laude, 1985,
Phi Beta Kappa**Bar Admissions**

California

Contact:949.798.0714
ahartzell@oneil-llp.com

Andrew Hartzell has more than 20 years of experience in land use, environmental and natural resources law and is considered one of the leading Endangered Species Act attorneys in the country. He represents and counsels landowners, ranchers, developers, resource extractors, institutions, national and multi-national corporations and home builders on environment, land use and natural resource issues. His work often involves obtaining land use entitlements and governmental permits for clients, including strategic planning and innovative problem solving to resolve difficult natural resource and land use issues, such as those involving endangered species, wetlands, water, water quality, climate change, hazardous materials and historic resources.

Mr. Hartzell's practice routinely involves representing clients before federal, state and local agencies and commissions on matters involving such laws as the federal and State endangered species acts, the federal Clean Water Act (such as Section 404 permitting and Section 401 certification), the State water quality laws and California streambed alteration statute, the California Coastal Act, the California Environmental Quality Act, the National Environmental Policy Act, the National Historic Preservation Act, CERCLA, RCRA, and related statutes and regulations. Much of his practice includes negotiation with federal and state agencies, as well as compliance counseling, litigation and strategic counseling on environment, land use and resource issues. He provides counsel regarding regulatory enforcement actions as well.

Mr. Hartzell frequently provides scientific/legal analysis and advice on proposed species listings and critical habitat designations, and provides counsel on proposed legislation and regulatory reform proposals concerning the state and federal Endangered Species Act, as well as other natural resources legislation, regulation and policy proposals.

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Mr. Hartzell has been significantly involved in the development and/or implementation of a number of regional multi-species habitat conservation plans (HCPs) on behalf of his clients, including the Central/Coastal Subregional Natural Community Conservation Planning (NCCP) program for Orange County, the San Diego Area Multiple Species Conservation Program (MSCP) and the Subarea Plans for the City of San Diego, Chula Vista and San Diego County, the Kern County Valley Floor HCP, the Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP), the Western Riverside County MSHCP, and the Northern San Diego County MSHCP. For example, Mr. Hartzell represented the Building Industry Association of San Diego in negotiations with the State and federal wildlife agencies and the local governments on the development of the Implementing Agreement and Habitat Conservation Plan for the San Diego MSCP, a plan covering roughly 900 square miles in southwestern San Diego County.

Mr. Hartzell is well known for groundbreaking work on endangered species legal matters and has extensive experience counseling clients on all aspects of land use law as it relates to endangered species and wetlands. Mr. Hartzell has extensive experience in successfully negotiating and obtaining incidental take authorizations for his clients under both Section 7 and Section 10(a) of the federal Endangered Species Act, as well as take authorization under the California Endangered Species Act. He has negotiated and helped to develop a number of creative habitat conservation plans (HCPs) for his clients in order to procure incidental take authorization under ESA Section 10(a). Mr. Hartzell also has advised and represented affected landowners in connection with proposed experimental population reintroductions of listed species by federal agencies under Section 10(j) of the ESA.

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While at the University of Pennsylvania, Mr. Hartzell conducted research in the area of behavioral neuroscience, focusing on the phenomena of sodium appetite and neuronal plasticity, and is a published author in that field. He has served on various scientific research review boards, including past appointments to the South Coast Air Quality Management District's PM10 Task Force, the University of California, Irvine's ARC and Stanford University's PLAC and is a member of the American Association for the Advancement of Science.

Prior to entering private practice, Mr. Hartzell clerked for The Honorable Edith Hollan Jones, Chief Judge of the United States Court of Appeals for the Fifth Circuit, in Houston, Texas. He is a native of Carlisle, Pennsylvania.

Representative Publications and Presentations

- Author, "Challenges Facing the Continued Pursuit of Multi-Species Habitat Conservation Plans," Proceedings of the American Bar Association Section of Environment, Energy and Resources, October 2006.
- Speaker, "The Endangered Species Act and Property Rights – Will We See Peace in Our Time?" – American Bar Association Section of Environment, Energy and Resources 14th Annual Meeting, San Diego, CA, October 2006.
- Speaker, "Innovations in Species Conservation Symposium – Integrative Approaches to Address Rarity and Risk," Portland, OR, April 2003.
- Speaker, "The Pros and Cons of Habitat Conservation Plans, Multi-Species, Multi-Jurisdictional Habitat Conservation Plans, Natural Community Conservation Plans, and the Like for Landowners," CLE International, Endangered Species Act Conference, Los Angeles, CA, June 2000.
- Speaker, "Large-Scale Regional HCPs," CLE International, Endangered Species Act and Habitat Conservation Planning Conference, San Francisco, CA, November 1999.
- Speaker, "How to Effectively Resolve Land Use and Development Issues in Areas Impacted by the Listing of the Dehli Sands Flower-Loving Fly," National Association of Industrial and Office Properties, Inland Empire Chapter, Ontario, CA, April 1998.

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- Speaker, “Critters, Plants, Habitat, HCPs, NCCPs and Your Development: Is There Room for All?” and “Update on Recent Case Law Developments Concerning Wetlands, the Clean Water Act and the State Streambed Alteration Regulations,” Pepperdine University School of Law: Land Use, Zoning and Entitlement Conference, Malibu, CA, February 1998.
- California Bar Association, Environmental Law Section, Workshop on Natural Communities Conservation Planning: Legal Issues, Problems and Solutions, Stanford University, Stanford, California. Invited by California Bar Association to participate in select group of state experts to assist in resolution of unresolved legal issues surrounding implementation of State NCCP program, its relationship to federal and State Endangered Species Acts, other relevant federal and state environmental laws, and local land use planning laws. March 1997.
- Speaker, “The Endangered Species Act and Private Property,” Sixth Annual Environmental Defense Fund Benefactor Symposium, San Francisco, CA, April 1996.
- California State University, Fullerton, “Take and Takings Law Under the Endangered Species Act,” invited lecturer for graduate school environmental law courses, Spring 1996.
- Speaker, “What’s Wrong with the Endangered Species Act and How Can We Fix It?” Southern California Association of Governments Workshop for Elected Officials, Los Angeles, CA, June 1995.
- Speaker, “Policy Issues Affecting the Endangered Species Act,” Association of Environmental Professionals meeting, Costa Mesa, CA, January 1995.
- Speaker, “An Overview of the Endangered Species Act as Applied to Private Property,” Orange County Bar Association Seminar on Rapidly Developing Areas in Environmental Law Series, Irvine, CA, November 1993.
- Speaker, “The Environmental Movement vs. The Economy,” Building Industry Association of Southern California Baldy View Region, debate with Dr. Dan Silver of the Endangered Habitats League, Rancho Cucamonga, CA, April 1993.
- Speaker, “Environmental Management,” Leadership Tomorrow Conference, Newport Beach, CA, January 1993.

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- Co-Author (with Hugh Hewitt), “Recent Developments in Fish & Game’s Control Over Land Use,” California Planner, September 1992.
- Speaker, “Environmental Issues of Significance to G&Ts: The Endangered Species Act,” National Rural Electric Cooperative Association’s Annual Generator and Transmission Legal Seminar, San Diego, CA, November 1992.
- Speaker, “Thoughts on Recent Developments in the Application of the Federal Endangered Species Act and Related State and Federal Statutes,” National Rural Electric Environmental Association’s Annual Fall Conference, Snowbird, UT, September 1992.
- Co-Author, “Brief Preoperative Exposure to Saline Protects Rats Against Behavioral Impairments in Salt Appetite Following Central Gustatory Damage,” Behavioral Brain Research, April 1985. A. Hartzell, R. Paulus & J. Schulkin.

Representative Cases

- *Boise Cascade v. Spear*, (Case No. 97-1010). Represented landowners and developers in amicus brief to address question of the extent to which habitat suitable for listed species may be modified without constituting a prohibited “take” of the species under Section 9 of the ESA and the extent to which such habitat modification should be permitted to proceed without an injunction under the ESA.
- *Building Industry Legal Defense Foundation v. Norton*, (S.D. Cal. Case No. 0102101 and 0102145). Represented BILD Foundation in challenge to U.S. Fish & Wildlife Service’s failure to comply with the federal Endangered Species Act in connection with designating critical habitat for eight California plant species.
- *Center for Biological Diversity, et al. v. Berg*, (S.D. Cal. Case No. 98-2234). Represented major home builder and National Association of Home Builders, California Building Industry Association, BILD Foundation and San Diego Building Industry Foundation as Interveners in litigation brought by 27 “environmental” interest groups challenging a landmark multi-jurisdictional, multi-species habitat conservation plan and regional Section 10(a) incidental take permit issued to the City of San Diego.

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- *Cucamongans United for Reasonable Expansion v. City of Rancho Cucamonga*, 82 Cal. App. 4th 473 (2000). Defended Real Party In Interest land developer in environmental litigation at both the trial and appellate levels challenging City approval of a development project on numerous grounds, including compliance with CEQA, the federal Endangered Species Act, the California Fish & Game Code, and other statutes.
- *Endangered Habitats League v. Riverside County*, (Unpublished Court Opinion from Cal. Court of Appeals, Fourth District, E025919) (2000 Cal. LEXIS 8016). Counsel to Real Party in Interest land development company successfully defending challenge by “environmental” interest group that project may inadvertently affect a federally-listed species and that County violated CEQA in approving project and amending the General Plan.
- *Tejon Ranch Co. v. U.S. Fish & Wildlife Service*, (E.D. Cal. Case No. 97-6261). Represented landowner in challenge to U.S. Fish & Wildlife Service failure to comply with federal laws in connection with proposed reintroduction of an experimental population of a listed endangered species.
- *United States of America v. Edward Antonini Residuary Trust, et al.*, (C.D. Cal. Case No. 99-04576). Represented landowner and developer in litigation with U.S. Fish and Wildlife Service in connection with dispute as to whether proposed commercial development project would result in a violation of the federal Endangered Species Act as a result of proposed habitat modification.

Representative Work

A list of representative projects for which Mr. Hartzell has provided legal counsel is available upon request.