

Environmental Group Of The Year: Sheppard Mullin

By **Humberto J. Rocha**

Law360 (February 2, 2022, 2:02 PM EST) -- Sheppard Mullin Richter & Hampton LLP counseled nonprofits seeking to protect endangered species, guided the International Emissions Trading Association in a case against the federal government and represented an all-electric car manufacturer in a dispute with California's Air Resources Board, earning the firm a spot among Law360's 2021 Environmental Groups of the Year.

The firm's recent work for a wide range of clients highlights its strengths when it comes to defending clients in suits involving the federal government or challenging California state regulation at a time when businesses are looking to align market incentives with renewable and sustainable energy.

One of the more important cases for the firm involved representing the International Emissions Trading Association, as an intervenor defendant, in a lawsuit brought by the federal government concerning California's cap-and-trade agreement with Quebec to link their respective greenhouse gas emissions trading systems under Article 6 of the Paris Agreement.

The federal government alleged that the state had violated the treaty and compact clauses of the U.S. Constitution and the Foreign Affairs Doctrine. Ultimately, a district court and the Ninth Circuit upheld judgments in favor of California and the International Emissions Trading Association.

Nicholas W. van Aelstyn, a partner in the firm's real estate, land use and environmental practice group, said that while he had represented the International Emissions Trading Association before, counseling the group as a co-defendant in the suit between the federal and California state governments was the most interesting case.

"The U.S. government argued that Canada could take credit for emissions reductions in California by buying California allowances and use those to meet its obligations under Article 6," van Aelstyn said. "And we pointed out — because we do a lot of work with Article 6 and a lot of work with the Paris Agreement — that that's an incorrect reading of Article 6 and that the U.S. would have had to agree to any such claim by Canada."

According to van Aelstyn, these types of cases are indicative of the wider shift toward renewable energy



by the business community as a result of climate change. "I think other states will be more willing, then, to follow California's lead on this and perhaps even join the program," van Aelstyn said.

The firm also represented Endera, an all-electric car manufacturer, in its dispute against California's Air Resources Board, which had denied the manufacturer hybrid and zero-emission vehicle vouchers due to a third-party vendor's clerical errors and production delays. Sheppard Mullin led the first-ever appeal against the board concerning these vouchers and, after several rounds of negotiations regarding the carmaker becoming a vertically integrated company, the firm was able to secure participation for Endera in the 2021 round of the California Air Resources Board's voucher program.

Partners Jeffrey Parker and Whitney Roy, both based in the firm's Los Angeles office, are also representing Soco West Inc. and Brenntag Pacific Inc. in an ongoing, 13-year-old case pending in Orange County Superior Court. The Orange County Water District sued dozens of industrial facilities, manufacturers and property owners, claiming that they had contaminated the groundwater in the area. According to Parker and Roy, the firm will be handling all aspects of the trial and the coordination of a large defense group in a case that will extend into early 2022.

"We started out actually representing a different defendant two years ago and got them out on summary judgment," Roy said. "We were brought in to represent Soco West and Brenntag Pacific and help ready the case for trial. We started trial in April, and we've really been the leader of the large defense group as there are a number of defendants in the case. We got our client Brenntag Pacific out in October."

Sheppard Mullin also used its experience in public-private partnerships and regulatory and planning issues to help the National Wildlife Federation secure a \$25 million grant from the Annenberg Foundation to build a wildlife crossing over the 101 Freeway in Los Angeles. That project will help reconnect species in a biodiversity hotspot in the Santa Monica Mountains and protect the endangered mountain lion population.

Parker said these cases reflect the firm's collaborative energy and the willingness of its different talent pools to work together and best serve the client. For example, the National Wildlife Federation project brought together people from land use and environmental teams.

"We try to focus on the core area [and] step out, to have a good understanding of what others in the group are doing and are able to do to make sure that we can work together," Parker said. "If you focus solely on one area, you kind of lose the collaboration and ideas and expertise you may get from others."

The firm's more than 1,000 attorneys work across its 15 offices worldwide, with the bulk of the environmentally focused lawyers stationed in California as well as in New York and Washington, D.C. While around 50 attorneys currently focus on environmental litigation, the partners say the environmental practice — especially due to its intersections with business — is expanding and something that will continue to grow in the coming years.

"It creates this mesh that kind of covers the entire spectrum," Parker said. "There's a lot of sharing and working together and crossover that really helps out ... we've got the people with the substantive environmental expertise and we've got the sort of procedural experts on certain things, and it just leads to some very impressive teams that can handle everything we need to handle."

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