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THE 2018 CLAY AWARDS

The 22nd Annual California Lawyer Attorneys of the Year

ENVIRONMENT

STRIKING BALANCE BETWEEN ENVIRONMENTAL GROUPS, REAL ESTATE DEVELOPERS

Net Zero Newhall



JIM ARNONE AND GEORGE MIHLSTEN Latham & Watkins LLP

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• George Muhlsten

The creation of California’s largest master-planned city — and a major component in solving the state’s enduring housing crisis — was nearly upended by a fish no bigger than your pinkie.

The stickleback is a resident of the Santa Clara River, which flows through a portion of Los Angeles County owned by Emile Haddad.

He is a developer who dreamed of building a 22,000-home community to relieve the housing crunch in Southern California. But for three decades Haddad’s dream, the Newhall Ranch Project, was stymied by court battles with conservationists concerned about the stickleback and the general environmental impact of adding thousands of homes and businesses to the county.

Earlier this year Haddad’s team was able to break ground on Newhall Ranch, thanks to negotiations wrangled by a team of attorneys

from Latham & Watkins LLP.

The key to moving the project forward occurred in September when attorneys George Muhlsten and Jim Arnone helped secure a landmark settlement with multiple environmental groups to drop federal litigation opposing the project. *Center for Biological Diversity, et al. v. United States Army Corps of Engineers, et al.*, 14-CV01667 (C.D. Cal., filed March 6, 2015).

The settlement — which was approved of by the Santa Ynez Band of Chumash Indians, the Center for Biological Diversity, the California Native Plant Society, and the Wishtoyo Chumash Foundation and its Ventura Coastkeeper program — ended a legal battle that stretched back two decades.

Shortly after Muhlsten and the Latham team were brought on, the project’s future was plunged into uncertainty by a California Supreme

Court ruling that overturned an environmental impact report for failing to adequately analyze greenhouse gas emissions.

“Haddad basically said let’s do it 100 percent... let’s go to zero net greenhouse gas,” Muhlsten said.

Easier said than done.

“We’re basically talking about building a new city from scratch,” said Jim Rusk, an attorney with Sheppard, Mullin, Richter & Hampton LLP who helped secure permits for the project.

Working with technical experts, the attorneys crafted several measures to create a net zero energy standard for residential and commercial buildings. This included the addition of 2,000 electric vehicle charging stations installed around the Newhall Ranch community, and working with two nongovernmental organizations to develop traffic-reduction programs.

Muhlsten and his co-counsel also reached out to the petitioners to learn more about their concerns and promote their own solutions.

“We said, ‘Why don’t we talk to the people who sued the project and talk about what we want to do here in terms of innovative environmental sustainability?’” Muhlsten said.

One of the chief sticking points was the stickleback fish, which lived on land that would be directly impacted by the project. Muhlsten sat down with engineers and examined the details of bridges spanning the river to make sure none of the construction work would impact the fish.

“It was literally getting into the elements of how you construct a bridge,” he said. The attorneys also added Native American resource protection provisions to appease the Santa Ynez Band of Chumash Indians, he said.

The key to the success of the settlement was how deeply collaborative it was from start to finish, Muhlsten said.

“It’s important to understand: this was a team approach,” Muhlsten said.

Mark Dillon, an attorney with Gatzke, Dillon & Ballance LLP, also credited the willingness of Haddad to make the project a reality.

“You got to have leadership that is looking to the future,” Dillon said. “That was his vision, we just tried to implement it.”

— Eli Wolfe