

Helping Railroads Move Goods Across the Country

Client:	Association of American Railroads, Union Pacific Railroad Company
Industry:	Transportation
Areas of Law:	Constitutional, environmental
Venue:	U.S. Court of Appeals for the Ninth Circuit
Result:	Won an important preemption case in the Ninth Circuit after winning at trial



“There was almost uniform agreement that the biggest environmental victory in Southern California was won by Pillsbury.”

—Los Angeles Daily Journal

Companies routinely face different regulatory regimes in the varied places they do business. But when your business is literally moving cargo, those variations can stop you in your tracks. In this case, victory for our clients meant preserving the multibillion-dollar flow of goods across the country by rail.

Railroad operators encountered a regulatory morass in 2006 when the South Coast Air Quality Management District in Los Angeles created its own rules targeting emissions from locomotives. To restore uniformity, the Association of American Railroads and the nation’s largest railroad, Union Pacific, turned to Pillsbury. Teaming up with BNSF Railway and its counsel, Pillsbury successfully challenged the regulations in federal court.

Relying on their decades of knowledge of the transportation industry, Pillsbury’s lawyers showed that using trains to transport goods actually helped improve overall air quality by replacing high-polluting trucks and reducing highway congestion. At trial, Pillsbury also explained how railroad operators are already spending billions, on a voluntary basis, to replace older locomotives with environmentally conscious upgrades.

The trial court agreed that federal law—specifically, the Interstate Commerce Commission Termination Act of 1995—preempted the local rules on locomotive emissions. But district regulators nonetheless appealed to the U.S. Court of Appeals for the Ninth Circuit.

In 2010, the Ninth Circuit agreed that the railroads were correct: “Because the district’s rules have the force and effect of state law, ICCTA preempts those rules unless they are rules of general applicability that do not unreasonably burden railroad activity,” wrote the court. “The district’s rules plainly cannot meet that test.”