

HANNA AND MORTON LLP

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LARRY G. GUTTERRIDGE

LEGAL EXPERIENCE:

Partner

Hanna and Morton LLP

Represent a broad variety of clients in all aspects of environmental health and safety law, including litigation, regulatory and transactional matters. Practice particularly involves hazardous waste cleanup and treatment (CERCLA and RCRA issues), environmental management, and toxics exposure (Right-To-Know, Proposition 65 and sick building issues). Practice also includes Brownfields; CEQA and NEPA issues and criminal defense. (1/99 to present)

Partner, Head of Los Angeles Environmental Group Sidley & Austin

Engaged in a full service environmental practice involving all aspects of environmental, health and safety law on a nationwide basis. (9/87 to 12/98)

Counsel

ARCO

Principal environmental lawyer for ARCO Petroleum Products Company, Los Angeles, California (the refining, distribution and marketing division of Atlantic Richfield Company, now owned by British Petroleum). Handled permitting, litigation, compliance, rulemaking and legislation concerning air, water, hazardous waste, toxics and safety. (6/81 to 9/87)

Principal environmental lawyer with similar responsibilities for ARCO Chemical Company, Philadelphia, Pennsylvania (a major domestic and international petrochemical and proprietary chemical company, now owned by Lyondell Petrochemical Company). (3/79 to 5/81)

Appellate Attorney, Land (now Environment) and Natural Resources Division United States Department of Justice, Washington, D.C.

Briefed and argued appeals involving Federal environmental statutes and regulations; compliance of Federal agencies with the National Environmental Policy Act; and mining, oil, water and Indian rights. Prepared briefs, petitions for *certiorari* and memoranda in opposition to *certiorari* for filing in the Supreme Court. Advised the Solicitor General by memoranda whether an appeal should be taken or *certiorari* sought. (Hired under the Honor Law Graduate Program, 4/71 to 3/74; rehired 8/74 to 3/79; received Meritorious Service Award, 1974, and Special Commendation Award, 1976.)

Assistant to the Special Counsel to the President, James D. St. Clair The Executive Office of the President, The White House

Represented President Richard M. Nixon regarding impeachment proceedings in the House of Representatives and related litigation in the Supreme Court. (3/74 to 8/74)

LEGAL EDUCATION:

University of Illinois, College of Law, J. D. 1971

Specialty: Environmental Law and International Trade

Activities: Employed as Legal Research Assistant, University of Illinois, College of Agriculture (7/69 to 1/71), primarily involving environmental law. Unable to accept law review invitation due to intervening military obligation.

Honors: Scholastic Scholarship 1967-71; Honors List 1969-70 Rank: Upper 20 percent; 4.15/5.00

UNDERGRADUATE EDUCATION:

University of Illinois, College of Agriculture, B. S. 1967

Major: Communications (advertising, journalism, radio/television)

Honors: Graduation with High Honors, University Honors and Bronze Tablet (highest University of Illinois academic honor)

Rank: Upper 3 percent; 4.72/5.00

Danville Junior College, Danville, Illinois, 1963-65

Honors: Academic Letterman, Dean's List Rank: Upper 3 percent; 4.78/5.00

BAR ADMISSIONS:

Federal: United States Supreme Court
U.S. Courts of Appeals for the First, Second, Fourth, Sixth, Eighth, Ninth, and D.C. Circuits
U.S. District Courts for the Northern, Central and Southern Districts of California

States: California Supreme Court
Pennsylvania Supreme Court (inactive)
Illinois Supreme Court (inactive)

(Also argued before Supreme Courts of Nebraska and Idaho)

BAR ACTIVITIES:

ABA Section of Environment, Energy and Resources: Council Member 1999-2002; Section Program Chair for 2003 ABA Annual Meeting; Program Chair for the Section's 1998 Annual Meeting; past Chair of the Section's Ethics Committee.

Served on the State Bar of California Environmental Law Committee; the California Environmental Quality Act (CEQA) Committee of the California Bar's Environmental Law Section; was an Advisor for many years to the Section's Executive Committee; and was Chair of the Section's Education Committee, Co-Chair of the Section's 1994 California Environmental Law Institute at Yosemite and a Judge at the Section's 2000 Law Student Environmental Negotiation Competition.

SAMPLE OF MATTERS, HANNA AND MORTON, 1999- PRESENT

Successfully settled 5 plus year litigation in Complex Civil Department, Orange County, California, Superior Court concerning contaminated oilfield property.

Coordinating counsel for 19 third party defendants in Port of Los Angeles contaminated sediment case in Los Angeles Federal District Court.

Obtained stay based on Primary Administrative Jurisdiction in litigation concerning Federal Superfund Site.

Recovered multi-millions from recalcitrant parties at Federal Superfund Site.

Represented multiple parties in California Public Utilities proceeding regarding Natural Gas Vehicle subsidy.

Represent manufacturer of after-market catalytic converter in litigation with California Air Resources Board.

Counseled numerous clients concerning Proposition 65 and other chemical regulatory matters.

Represent client with innovative contaminated soil solidification process concerning California regulatory and environmental impact issues.

Represent numerous owners of contaminated service station properties.

Represent numerous clients with issues regarding South Coast Air Quality Management District.

Analyzed oil and gas royalty, working and fee interest liability under CERCLA for various clients.

Represent numerous clients with oil & gas production environmental issues.

Counsel to/Principal in International Environmental Auditing Company.

SAMPLE OF MATTERS, SIDLEY & AUSTIN, 1987-1998

Represented power company in challenge to federal Environmental Impact Statement for transmission line project.

Civilly settled complicated, multi-jurisdictional criminal felony case.

Represented developers in acquiring "Brownfields" properties and negotiating prospective purchaser agreements with governmental agencies.

Advised regarding ISO 14000 requirements. Conducted ISO 14000 training in Southeast Asia for governmental, company and trade association personnel. Advised regarding Proposition 65 requirements and handled Proposition 65 litigation, including a settlement described by Proposition 65 News as one of the most complicated Proposition 65 settlements.

Negotiated one of the most innovative Superfund Records of Decision (RODs) ever issued by U.S. EPA, allowing alternative remedies. Sued and recovered approximately \$10,000,000 in response costs from over 300 other responsible parties at the site.

Negotiated a joint California DTSC Remedial Action Plan (RAP) and U.S. EPA Record of Decision (ROD) for one of the largest and most successful pump and treat remedies undertaken and completed in California. Obtained recycling status, under the "closed loop" exclusion, for a new hazardous waste process that was not completely contained.

Conducted due diligence for numerous transactions on behalf of buyers, sellers and lenders. Negotiated settlement of penalties for delivery of waste to unlicensed facility. Advised concerning air, water, solid and hazardous waste and toxics issues. Advised regarding California Environmental Quality Act (CEQA) and California Coastal Commission issues. Advised regarding CERCLA matters, including natural resource damage issues. Conducted numerous seminars on criminal, CEQA, air, transactions, environmental management and ethics issues.

SAMPLE OF MATTERS, ATLANTIC RICHFIELD, 1979-1987

Air

Waivers under Section 211(f) of the Clean Air Act (CAA) for the use of oxygenated low emission gasoline blending components necessary for reformulated gasoline.

State and federal administrative proceedings concerning adoption and interpretation of gasoline lead phase down regulations and lead use, reporting and trading.

Numerous variance proceedings before the Hearing Board of the South Coast Air Quality Management District (SCAQMD).

Negotiated/litigated alleged civil and criminal violations of South Coast Air Quality Management District (SCAQMD) and other California air district, regulations.

Chairman of American Petroleum Institute (API) Photo-Chemical Oxidants (PCO) litigation steering committee (including administrative proceedings for the establishment of federal ambient air quality standards).

Chairman of Western Oil and Gas Association (WOGA) (now Western States Petroleum Association (WSPA)) legal subcommittee concerning EPA Reasonable Extra Efforts Program (REEP).

Water

NPDES permitting, renewal and administrative appeals. Wetland status of agricultural/industrial property. Discharge to publicly owned treatment works of water allegedly violating pretreatment requirements. Coast Guard proceedings concerning alleged illegal discharges to navigable waters. Investigation and remediation of groundwater contamination relative to chemical and gasoline manufacturing, distribution and retail facilities.

Waste

Original CERCLA (Superfund) legislation and CERCLA reauthorization including: development of broad-based Superfund tax concept and details of proposed tax; execution of study to prove defects in petrochemical feedstock tax concept; formulation of position on programmatic aspects of CERCLA reform, including settlement and victims compensation; and lobbying for adoption of proposed provisions, including testimony before Congressional committees and meetings with Congressional members and staff.

CERCLA (Superfund) and related state and local waste site negotiations and settlements. CERCLA (Superfund) Section 103(c) responses. "Eckhardt survey" responses concerning waste site usage. State and federal hazardous waste permit negotiations. Co-chairman of Steering Committee of Potentially Responsible Parties (PRPs) re: Operating Industries, Inc.

Waste Disposal Site

Numerous petroleum product leaks and spills at distribution and marketing facilities.

Toxics

Pre-Manufacture Notification (PMN) under Section 5 of the Toxic Substances Control Act (TSCA) for the oil drag reducer for the Alaska pipeline. Test market waiver under TSCA Section 5 for a gasoline chemical tracer.

Notifications and determinations under TSCA Section 8(c) and (e). Toxicological testing programs for products, intermediates and wastes. Risk assessments for various chemical exposures and facility operations. Review of hundreds of Material Safety Data Sheets (MSDS). Compliance with local, state and federal "right-to-know" statutes and regulations.

Health and Safety

Cal/OSHA investigation of various industrial accidents and related administrative proceedings. Compliance with OSHA MSDS and "right-to-know" requirements.

General

California Energy Commission certification, power purchase contract and partnership agreement for 385 megawatt cogeneration project. Review of environmental status of facilities and companies involved in acquisitions and divestitures. Internal environmental, health and safety audits, including formulation of audit policy and programs, advice to audit teams, and review of audit reports. Air, water and waste disposal permitting under federal, state and local requirements. Negotiation and settlement or defense of environmental violations under federal, state or local law (e.g., federal unleaded gasoline violations and Philadelphia Air Management Service (AMS) violations). Numerous American Petroleum Institute (API), Chemical Manufacturers Association (CMA) and Western Oil and Gas Association (WOGA) trade association activities. Permitting of major chemical and refining facilities.

UNITED STATES DEPARTMENT OF JUSTICE, 1971-1979

KEY CASES

Federal Air and Water Pollution Control Statutes and Regulations

Montana Power Co. v. Environmental Protection Agency, 608 F. 2d 334 (9th Cir. 1979). Consolidated appeal and petition for review concerning the definition of "commenced construction" under the Clean Air Act Amendments of 1977 and related Environmental Protection Agency regulations. Won.

Commonwealth Edison Co. v. Train, 649 F. 2d 481 (7th Cir. 1980). Ripeness for judicial review of the Environmental Protection Agency's requirement that the states include "anti-degradation" of existing clean water, in their water pollution control standards and plans. Won.

State of Alabama v. Seeber, 502 F. 2d 1238 (5th Cir. 1974), *vacated and remanded sub nom. Seeber v. Alabama*, 426 U.S. 932 (1976), *rev'd.*, 538 F. 2d 96 (5th Cir. 1976). Obligation of federal facilities to comply with state air pollution control procedures. Won.

United States v. Valley Camp Coal Company, 480 F. 2d 616 (4th Cir. 1973). Whether a criminal statute proscribing direct discharges into navigable waters implicitly proscribes indirect discharges. Won.

National Environmental Policy Act (NEPA) and Related Statutes

Port of Astoria, Oregon v. Hodel, 595 F. 2d 467 (9th Cir. 1979). Necessity and timing of Environmental Impact Statements relative to industrial electric power sales contracts and cooperative power development agreements. Lost.

Society for Animal Rights, Inc. v. Schlesinger, 512 F. 2d 915 (D.C. Cir. 1975). Expedited appeal from denial of a preliminary injunction pending consideration of the adequacy of an Environmental Impact Statement and the substantive decision, based thereon, to chemically control blackbirds on military installations in Kentucky and Tennessee. Won.

Swain v. Brinegar, 517 F. 2d 766 (7th Cir. 1975), *modified on rehearing en banc*, 542 F. 2d 364 (7th Cir. 1976). Scope and adequacy of Environmental Impact Statement for supplemental Interstate highway. Won in part/lost in part.

Jones v. District of Columbia Redevelopment Land Agcy., 495 F. 2d 1075 (1974) (stay of injunction affirmed following expedited argument), 499 F. 2d 502 (D.C. Cir. 1974), *cert. denied*, 423 U.S. 937 (1975). Discretion of a district court to deny injunction of actions not in compliance with the National Environmental Policy Act. Won.

Property, Water and Indian Law

United States v. John, 437 U.S. 634 (1978). Authority of Congress to re-recognize emancipated Indians and the Congressional and administrative action necessary to exercise such authority. Won.

Avondale Irrigation Dist. v. N. Idaho Prop., 577 P. 2d 9 (Idaho S. Ct. 1978). Purposes for which the national forests were created and for which federal water rights were reserved. Lost.

Ritter v. Morton, 513 F. 2d 942 (9th Cir. 1975), *rehearing and rehearing en banc denied*, *cert. denied sub nom. Ritter v. Kleppe*, 423 U.S. 947 (1975), *rehearing denied*, 423 U.S. 1081 (1976). Jurisdiction, choice of law, rule of law and validity of factual findings concerning title to islands in a navigable river offshore of a federal patent. Won.

McCullough v. Redevelopment Auth. of Wilkes-Barre, 522 F. 2d 858 (3rd Cir. 1975). Validity and application of Department of Housing and Urban Development urban renewal guidelines concerning the rights of private property owners to government acquisition or rehabilitation of flood damaged properties and related equal protection and due process issues. Won.

OTHER CASES

Application of County Treasurer v. Weyerhaeuser Mortgage Company, 57 Ill. App. 3d 550 (App. Ct., 1st Dist. 1978). (Briefed but did not appear.) Lost. *Asphalt Roofing Mfrs. Asso. v. Interstate Commerce Com.*, 567 F.2d 994 (D.C. Cir., 1977). Won in part/lost in part.

BPI v. Atomic Energy Com., 502 F.2d 424 (D.C. Cir. 1974). Won. *City of Boston v. Coleman*, 527 F.2d 643 (D.C. Cir. 1975), *cert. denied*, 444 U.S. 1078 (1980). Won. *Boyle v. Morton*, 519 F.2d 551 (9th Cir. 1975), *rehearing denied*, *cert. denied sub nom. Boyle v. Kleppe*, 423 U.S. 1033 (1975). Won. *Citizens Committee for the Columbia River v. Callaway*, 494 F. 2d 124 (9th Cir. 1974). Won. *Collingwood-on-The Potomac Citizens Association v. Fish*, 577 F. 2d 733 (4th Cir. 1978) (unpublished). Won. *Conservation Council of North Carolina v. Froehlke*, 6 ERC 1063 (4th Cir. 1973). Won in part/lost in part. *Conservation Council of North Carolina v. Froehlke*, 473 F.2d 664 (4th Cir. 1973). Lost. *Don't Tear It Down, Inc. v. Washington*, No. 75-2024 (D.C. Cir. 1976). Won.

Fort Sumter Tours, Inc. v. Andrus, 564 F.2d 1119 (4th Cir. 1977). Lost. *Hill v. Morton*, 525 F.2d 327 (9th Cir. 1975). Won. *Hiram Clarke Civic Club, Inc. v. Lynn*, 476 F.2d 421 (5th Cir. 1973). Won. *Homeowners Emergency Life Protection Committee v. Lynn*, 541 F.2d 814 (9th Cir. 1976). Won. *Ohmart v. Dennis*, 188 Neb. 260 (Neb. S. Ct. 1972). Won. *Kromarek v. United States*, 458 F. 2d 34 (8th Cir. 1972). Won. *Louisiana Environmental Society v. Coleman*, 537, F.2d 79 (5th Cir. 1976), *rehearing denied*, 540 F.2d 1085 (5th Cir. 1976). Won in part/lost in part. *Louisiana Environmental Society v. Coleman*, 524 F.2d 930 (5th Cir. 1975). Won. *Mississippi Power & Light Co. v. United States Nuclear Regulatory Comm.*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980). Won.

Mobil Oil v. U.S. Envir. Protection Agcy., No. 77-1194 (8th Cir. 1978) (unpublished order remanding and consolidating). Won. *Preston Nutter Corp. v. Morton*, 479 F.2d 696 (10th Cir. 1973). Won. *Save Our Ten Acres v. Kreger*, 472 F.2d 463 (5th Cir. 1973). Won in part/lost in part. *United States v. City of Painesville, Ohio*, 644 F.2d 1186 (6th Cir. 1981), *certiorari denied sub nom.*

City of Painesville, Ohio v. United States, 454 U.S. 894 (1981), *rehearing denied*, 454 U.S. 1069 (1981). Won. *United States v. Certain Land in New London*, 492 F.2d 1381 (2nd Cir. 1974). Won. *United States v. Fisher-Otis*

Co., 496 F.2d 1146 (10th Cir. 1974). Won. *United States v. State Tax Com'n of Miss.*, 505 F.2d 633 (5th Cir. 1974), *rehearing and rehearing en banc denied*, 535 F.2d 300 (5th Cir. 1976), *rehearing en banc denied*, 541 F.2d 469 (5th Cir. 1976). Lost, but overruled by *United States v. John*, *supra*. *United States v. Harvey*, 661 F.2d 767 (9th Cir. 1981), *rehearing and rehearing banc denied, certiorari denied*, 459 U.S. 833 (1982). (Briefed but did not appear.) Won. *United States v. 129.4 Acres of Land*, 572 F.2d 1385 (9th Cir. 1978). Lost. *Westside Property Owners v. Schlesinger*, 597 F.2d 1214 (9th Cir. 1979). Won. *Whiskers v. United States*, 600 F.2d 1332 (10th Cir. 1979). Won. *York Comm. for Safe Envir. v. U.S. Nuclear Reg.*, 527 F.2d 812 (D.C. Cir. 1975). Won in part/lost in part.

THE WHITE HOUSE, 1974

United States v. Nixon, 418 U.S. 683 (1974). Lost.