STITES & HARBISON PLLC



W. Blaine Early III

Title: Senior Member

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Blaine's science background and experience as a college professor help set him apart as an environmental lawyer, where technical expertise is an important complement to the practice of law. His legal practice is a broad approach to environmental law that includes a focus on water and land issues, agriculture, natural resources and energy, and the intersection of surety law and environmental regulatory matters. He counsels clients on environmental compliance and environmental considerations in real estate and business transactions and is active in civil and administrative litigation.

CAPABILITIES

Practice Areas

- Regulatory Counseling, Permitting, Compliance & Enforcement
- Environmental Transactions
- Environmental, Energy & Sustainability
- Environmental Surety Law
- Environmental Litigation
- Sustainability & Emerging Technology
- Health Care – Environmental
- Manufacturing
- Renewable Energy Development

RECENT ASSIGNMENTS

- Advising on documenting limitations on resource use to meet requirements for providing carbon emissions credits.
- Advising on structure of corporate transactions to mitigate potential liability for contaminated properties.
- Advising manufacturing clients on complex issues of stormwater pollution compliance.
- Advising surety on risks and compliance obligations associated with completing coal mine reclamation to avoid bond forfeiture
- Advising materials recycler on compliance with state and local water quality laws and ordinances
- Representing landowner in dispute over payment of mining royalties
- Defending mineral mining operations against citizens' suits alleging unauthorized water pollution
- Advising investor/purchaser of mining and mineral interests from bankruptcy estate
- Defending waste facility permit against citizens’ challenge
- Defending power plant's wastewater discharge permit against citizens' challenge
- Counseling clients on the validity of permit requirements and challenging permits when necessary
- Part of the legal team for surety companies addressing bankruptcy, mine reclamation, black lung and workers compensation issues
- Led the legal team on behalf of a major metropolitan area to challenge a wastewater discharge permit upstream of the city's drinking water intake and to protect upstream source water
- Counsel to major animal agriculture producers in litigation and compliance with environmental laws including Clean Water Act, CERCLA, EPCRA, waste and common law nuisance
- Counsel for real estate and business transactions and mineral, natural gas and oil development
- Represented parties in litigation involving water intrusion and mold growth in buildings
- Defending manufacturers in actions alleging exposure to toxic materials such as lead in the workplace and homes

BAR ADMISSIONS

- Kentucky
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

RECENT NEWS, ARTICLES & SPEAKING ENGAGEMENTS

- Age is an asset for UK's Donovan Scholars
  by Kim Kobersmith, *KentuckyLiving*, August 3, 2024
- Know Your Obligations: A Survey of Environmental Permitting and Reporting Requirements
  Speaker, 27th Annual Kentucky Environmental Permitting and Reporting Conference, Lexington, Ky., July 23, 2024 *,with Jennifer J. Cave*
- What You Need to Know About Reclamation Bonds
  Speaker, National Association of Surety Bond Producers (NASBP), February 28, 2023 *,with William T. Gorton III*
- Develop a Sustainability Plan
  with Shane Tedder, David DeVore andEmily Ladouceur, Bluegrass Forever Green Summer Conference 2022, July 2022
- Chapter 7: Reclamation Bonds
  co author with Robert L. Scanlon and Laura M. Murphy, *The Law of Commercial Surety and Miscellaneous Bonds*, Third Edition, ABA Tort Trial and Insurance Practice Section, 2022 *,with William T. Gorton III*
- Can My Business Take the 100% Clean Energy by 2030 Pledge?
  20th Annual Kentucky Environmental Conference, Kentucky Chamber of Commerce, March 10-11, 2022
- Four Important Environmental Law Changes Since You've Been Home
  ,with William T. Gorton III, Jennifer J. Cave, Mary Lucille Noah (Mary Lu) and W. Patrick Stallard Stites & Harbison Client Alert, May 5, 2020
- Stormwater Management and Green Infrastructure
  Kentuckiana Chapter of Hazardous Materials Managers, Louisville, KY, March 11, 2020
- Use Energy Star Portfolio Manager to Monitor Energy Use and Boost Profits
  9th Annual Kentucky Energy Management Conference, January 30, 2020
- Stormwater Management System Objectives and Design Considerations
  Stormwater Basins and Underground Systems, HalfMoon Seminars, Louisville, KY, November 1, 2019
- Corporate Sustainability Best Practices...Using the Energy Star Portfolio Manager to Boost Profits and Promote Sustainability
  28th Annual Business & Industry's Sustainability & Environmental, Health and Safety Symposium, Cincinnati, OH, March 26, 2019
- Overview of Water Laws in Kentucky
  HalfMoon Seminars on Kentucky Water Laws and Regulation, Lexington, KY, October 23, 2018

- Compliance With Industrial Wastewater Pretreatment Regulations and Unusual Stormwater Conditions

  27th Annual Business and Industry's Sustainability and Environmental, Health & Safety Symposium, Cincinnati, OH, March 27-28, 2018

- Reporting Sustainability: Zero Waste, Cradle-to-Cradle, and Life Cycle Assessment

  Kentucky Chapter of Air & Waste Management Association, Louisville, Kentucky, November 10, 2017

- Genetic Editing in Ag Biotech

  American Agricultural Law Association Symposium, Louisville, KY, October 27, 2017

- The Remains of Water Quality Regulation

  20th Annual Kentucky Environmental Permitting and Reporting Conference, Lexington, KY, August 10-11, 2017

- Regulatory Climate Under the Trump Administration

  ,with Dustyn B. Jones and Richard A. Vance Creditors' Rights & Bankruptcy Seminar, Keeneland Race Track, Lexington, KY, April 13, 2017

- Best Practices in Sustainability: Prove Your Success, in Zero Waste, Cradle-to-Cradle, and Life Cycle Assessment

  Annual Sustainability and Environmental, Health & Safety Symposium, Cincinnati, OH, March 21, 2017

- Current Issues and Perspectives on SMCRA Reclamation Bonding

  presented before U.S. Dept. of Interior, Office of Surface Mining, Washington, DC, February 11, 2016 *,with William T. Gorton III*

- Managing the Risks of Climate Change

  14th Annual Kentucky Environmental Conference, Kentucky Chamber of Commerce, Lexington, Ky., February 10, 2016 *,with Kenneth J. Gish Jr.*

- Complying with your KPDES Permit Part 2: Details

  The Goods, Kentucky Association of Manufacturers, May 2015

- Hot Topics in Banking and Real Estate Litigation

  ,with Brian R. Pollock, Chrisandrea L. Turner and Richard A. Vance Keeneland, April 23, 2015

- Bond What You Know and Insure What You Don’t: A Comment on A Market Approach to Regulating the Energy Revolution

  45 *Environmental Law Reporter* 10756, 2015

- Stormwater is Everyone's Challenge

  13th Annual Kentucky Environmental Conference, Kentucky Chamber of Commerce, February 10, 2015

- Read It, Do It, Document It: Complying with your KPDES Permit, Part 1: Implementing Plans

  The Goods, Kentucky Association of Manufacturers, January 2015

- Water Programs and HazMat Management

  25-Year Retrospective for Kentuckiana Chapter of Hazardous Materials Managers, Louisville, KY, January 14, 2015

- Sustainability and Biofuels

Sustain, Issue 31, Fall/Winter 2015, Kentucky Institute for the Environment and Sustainable Development, UofL, December 2014

- Waters, waters everywhere: Does the proposed definition of waters of the United States expand the Clean Water Act's reach?

  Trends, Vol. 46 No. 2, published by the American Bar Association's Section of Environment, Energy and Resources, November/December 2014

- Facing High-Tide Successfully: Getting Stormwater Policies Put into Practice

  participant in a Committee Program Call sponsored by three committees of the American Bar Association's Section of Environment, Energy and Resources, October 2014

- Environmental Compliance and Drinking Water Protection: The Roles of Permits, Plans, and Reports

  17th Annual Kentucky Environmental Permitting & Reporting Conference, Kentucky Chamber of Commerce, August 20, 2014

- You Thought You Had a Permit for That Discharge?

  17th Annual Kentucky Environmental Permitting & Reporting Conference, Kentucky Chamber of Commerce, August 19, 2014

- From Production to Market

  Oil and Gas Rights in Kentucky, Lorman Education Services, Louisville (May 16, 2014) and Lexington, Ky. (May 21, 2014)

- Kentucky Regulatory Changes in Water Quality Standards

  Environmental Law CLE, Kentucky Bar Association, April 2014

- Development of Kentucky Water Laws

  and "Complying with Water Quality Laws and Regulations, Kentucky Waters Laws and Regulations, HalfMoon Seminars, Louisville, Ky., January 2014

- Stormwater Regulation, It's Time to Get Serious

  2013 Kentucky Chamber of Commerce 16th Annual Environmental Permitting & Reporting Conference, August 21, 2013 ,*with Kenneth J. Gish Jr.*

- Legal and tax issues for energy generation in Kentucky

  Kentucky Association of Manufacturers, May 2013

- Natural resources law update: Issues in surface mining

  Kentucky Bar Association, April 2013

- Water-related initiatives concerning central Appalachian coal mining

  Key Environmental Issues in U.S. Region 4, U.S. Environmental Protection Agency Region 4 and American Bar Association Section on Environment, Energy and Resources, February 2013

- What do you do with an old power plant?

  Stites & Harbison, PLLC, Client Alert, December 14, 2012

- You don’t miss it until it’s gone: Drought highlights the importance of water management

  Water Quality and Wetlands Committee Newsletter, American Bar Association, Vol. 10, No. 2, August 1, 2012

- Reclamation Bonds, The Law of Commercial Surety and Miscellaneous Bonds

Second Edition, American Bar Association Fidelity & Surety Law Committee (with George Thompson), May 2012 , *with William T. Gorton III*

- Trends in Water Quality Issues for Appalachian Mining

  Kentucky Water Resources Annual Symposium, March 19, 2012

- Current and Emerging Legal Issues on Mountaintop Removal Coal Mining

  ,with William T. Gorton III Webinar presented by BloombergBNA, February 28, 2012

- Court says the EPA and Corps of Engineers must follow the law

  Stites & Harbison, PLLC, Client Alert, October 19, 2011

- The Balancing Act of Biofuels

  presented at the Louisville Bar Association, June 8, 2011

- Intergovernmental Cooperating and Coercion in Environmental Law

  presented at the CLE Seminar sponsored by the Kentucky Legislative Research Commission, Frankfort, Ky., June 1, 2011

- Kentucky Water Laws and Regulations

  author and presenter, HalfMoon Seminars, Lexington, Ky., March 31, 2011

- Environmental/Reclamation Financial Assurances: Back to the Future

  56th Annual Rocky Mountain Mineral Law Annual Institute, Banff, Alberta, Canada, July 22-24, 2010 *,with William T. Gorton III*

- Not All Biofuels are Green

  Kentucky Bar Association, *Bench & Bar*, March 2010

- SEC Describes Disclosure Requirements on Climate Change

  Stites & Harbison, PLLC, Client Alert, February 5, 2010

- Big Waters: Everyone's Resource but Whose Responsibility?

  presented as introduction to panel discussion on water quality in the Chesapeake Bay, Fall 2009 meeting of the American Bar Association Section on Environmental, Energy, and Resources, Baltimore, Md., September 2009

- Property Rights in a Sustainable World: More than Minerals and Surface

  Energy & Mineral Law Foundation, presented at the Annual Institute, Hilton Head, S.C., May 2009

- Biofuel Production and Water Quality

  Newsletter of the Water Quality and Wetlands Committee, American Bar Association Section on Environment, Energy, and Resources, July 2008

- Toilet to Tap and the Clean Water Act

  Newsletter of the Water Quality and Wetlands Committee, American Bar Association Section on Environment, Energy, and Resources, April 2008

- Carbon Concerns: Law, Policy, and Business

  Environmental Law Update, Kentucky Bar Association, August 2007

- Something Old, Something New, Something Borrowed: The Marriage of Nuisance and Environmental Regulation

  presented as part of the panel on CAFO Litigation: Anticipatory Nuisance and CERCLA/EPCRA Liability, American Bar Association Section of Environment, Energy and Resources, Thirteenth Section Fall Meeting, Nashville, Tenn.,

September 21-25, 2005

- Mold Litigation & Risk Management
  presented at Concurring Tomorrow Together, hosted by Park Supply at Caesar's Indiana, January 29, 2005
- Surety's Rights and Obligations Under SMCRA
  ,*with William T. Gorton III* Energy and Mineral Law Foundation's 29th Mineral Law Conference, October 14-15, 2004
- The Blending of Bankruptcy and Environmental Law Issues
  19th Annual Environmental Law Institute, University of Kentucky College of Law, November 14, 2003
- Managing Risks of Mold
  Center for Higher Education Law, Morehead State University October 3, 2003
- Mold Fundamentals and the Law
  Seminar presentation: Solving Water Intrusion and Mold Problems in Kentucky

FIRM LEADERSHIP

- Office of General Counsel, Ethics Subcommittee, Member

MEMBERSHIPS

- American Bar Association
- Kentucky Bar Association
- Fayette County Bar Association
- Kentucky Academy of Science,
  - President, 1991

COMMUNITY INVOLVEMENT

- Lexington-Fayette County Urban Government, Environmental Commission, Chair
- Upper Cumberland River Watershed Watch, Secretary and Board Member
- Watershed Watch in Kentucky, Inc., former Chair and Board Member
- Vital Habitats Foundation, Inc. (formerly Conservation and Research Initiatives, Inc.), Board Member
- Lexington Fayette County Emergency Operations Center, Volunteer Communications Coordinator

EDUCATION

- University of Kentucky College of Law J.D., *cum laude* 1996
- University of Louisville Ph.D., Biology, 1988
- DePauw University B.A., Zoology, 1976

MORE THAN STITES & HARBISON

Law is Blaine's second career. He served on the biology faculty of Cumberland College (now the University of the Cumberlands) in Williamsburg, Ky., from 1979 until 1993, chairing the department (1984 to 1993) and earning the rank of full professor. His research focused on insect/plant interactions, and he continues those interests. Prior to joining the firm in September 1998, Blaine was Judicial Law Clerk to Hon. Jennifer B. Coffman, United States District Judge for the Eastern and Western Districts of Kentucky, in London, Kentucky. Blaine is current Chair of the Lexington-Fayette County Urban Government Environmental Commission and was a board member and chair of the Board of Bluegrass Tomorrow. He is a member of the board for the Upper Cumberland River Watershed Watch and is a former chair and board member of the board of the state-wide organization Watershed Watch in Kentucky, Inc. Blaine is a former Chair of the Kentucky Chamber Energy and Environmental Council, a former member of the Board of Trustees of the Energy and Mineral Law Foundation, former chair of the Water Quality and Wetlands Committee of the American Bar Association's Section on Environment, Energy, and Resources and co-chair of the Section’s Virtual Learning Committee; former chair of the Natural Resources Section of the Kentucky Bar Association; and, a former president of the Kentucky Academy of Science. He is an amateur radio “ham” extra class radio operator, is active in regional emergency communications efforts, and delights in remote, solar-power communications activities.

ACCOLADES

- *Best Lawyers in America*®, Energy Law, Environmental Law; Water Law (2007-27)
- *Kentucky Super Lawyers*® (2016-26)
- International Law Office and Lexology, Client Choice Award for Excellence in Client Service (2015)
- Robert N. Clay President's Award, Bluegrass Tomorrow Awards Breakfast (2010, 2023)