STITES & HARBISON PLLC



William T. Gorton III

Title: Senior Member

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Bill Gorton is a Senior Member of Stites & Harbison in the Environmental, Energy & Sustainability Service Group. He is national counsel to numerous clients on environmental regulatory and land and water resources matters. He represents numerous solar energy developers along with industrial scale energy storage battery companies in siting, property rights, zoning and permitting and compliance issues. Bill has represented clients in the waste management sector including acquisitions, due diligence, compliance and contracting. He has been counsel in the development of numerous independent gas, solar and waste-coal power plants. He has been national counsel to numerous surety companies regarding over $4 billion in financial guarantees on bankrupt and/or defaulting mining operations, hazardous waste facilities and solid waste disposal facilities throughout the United States. He has been primary environmental counsel in the development of interstate pipeline associated with major natural gas resource development. He also counsels on large natural resource and energy, waste industry, business or corporate transactions, and project development assessing and addressing environmental regulatory issues and accomplishing clients' goals. He advises healthcare clients in permitting, acquisitions and environmental compliance matters. Bill served as an Adjunct Professor of Environmental Law at the University of Kentucky's Natural Resources and Environmental Conservation program for twelve years.

Before embarking on a law career, Mr. Gorton managed many projects as an environmental consultant on projects throughout the U.S.

CAPABILITIES

Practice Areas

- Renewable Energy Development
- Regulatory Counseling, Permitting, Compliance & Enforcement
- Environmental Transactions

- Environmental Litigation
- Environmental, Energy & Sustainability
- Health Care – Environmental
- Manufacturing
- Natural Resources & Environmental Surety Law
- Sustainability & Emerging Technology

RECENT ASSIGNMENTS

- Lead counsel coordinating the development of industrial scale solar energy facilities in numerous states, addressing solar leases and easements, local, state and federal permitting and approvals, economic incentives and EPC.
- Counsel to major healthcare corporations on acquisitions and environmental compliance obligations.
- Counsel to various clients dealing with Naturally Occurring Radioactive Materials ("NORM") disposal to Landfill business development to Landfill operations and acquisition.
- Lead counsel to numerous national surety companies in developing and advocating the surety industry positions in the bankruptcies of Peabody Coal Company, Arch Coal Company, and Alpha Natural Resources across the United States.
- Counsel in development of and property rights acquisition for interstate natural gas liquids pipeline from Marcellus and Utica shale resource areas including state and federal requirements, environmental analysis associated with permitting, construction and operation.
- Counsel to numerous manufacturing operations regarding regulatory compliance.
- Lead counsel in first Brownfields transaction in Lexington, Ky., (2013) in acquisition of GE plant site for LexTran.
- Advised and developed the state and federal reclamation financial assurance replacement program ($150 million) including permit transfer, owner/controller notice and collateral releases associated with Montana and Wyoming Powder River Basin Coal Company sales.
- Lead environmental counsel representing international purchaser in $1 billion acquisition of active multi-state coal company, including underground, surface and mineral processing operations.
- Acted as national counsel in coordinating matters for the New York Department of Insurance as Rehabilitator of Frontier Insurance Co. regarding surety exposure on over $1 billion for hazardous waste treatment, storage and disposal facilities, underground and surface coal mines, gold mines and processing facilities, solid waste disposal facilities, recycling facilities and other regulated industries throughout the United States.

- Counsel to major Timber Investment Management Organizations in the acquisition of large Appalachian timer tracts and surface rights.
- Lead counsel to largest thoroughbred race track facility operator in the United States in federal CAFO rulemaking process with the United States Environmental Protection Agency under the Clean Water Act.
- Lead counsel to major U.S. surety industry client with the United States Department of Interior, Office of Surface Mining in federal rulemaking regarding “owner/controller” liability under the Surface Mine Control and Reclamation Act.
- Led a team of lawyers on behalf of a major surety company in the bankruptcy of Horizon Natural Resources, at the time the largest coal company bankruptcy in U.S. history. The team developed strategies to assure land reclamation on over 400 mines under federal and five state regulatory programs while mitigating over $125 million in surety exposure.
- Environmental counsel in development and/or financing of numerous waste coal independent power plants.

BAR ADMISSIONS

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

RECENT NEWS, ARTICLES & SPEAKING ENGAGEMENTS

- Significant Merchant Electric Legislative Amendments Head to Governor’s Desk
  Stites & Harbison Client Alert, March 24, 2023
- What You Need to Know About Reclamation Bonds
  Speaker, National Association of Surety Bond Producers (NASBP), February 28, 2023 *,with W. Blaine Early III*
- 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 W. Blaine Early III*
- Four Important Environmental Law Changes Since You’ve Been Home
  ,with W. Blaine Early III, Jennifer J. Cave, Mary Lucille Noah (Mary Lu) and W. Patrick Stallard Stites & Harbison Client Alert, May 5, 2020

- Coming Soon: Revised and (Mostly) Relaxed Hazardous Waste Pharmaceutical Regs!
  Stites & Harbison Client Alert, July 2, 2019
- ‘Waters of the United States’ What Next? Proposed 2019 Trump Administration WOTUS Rule
  Stites & Harbison Client Alert, March 7, 2019
- 'Waters of the United States' What Next? Proposed Trump Administration WOTUS Rule....2019 Addendum
  Kentucky Wetlands Law and Compliance, presented by HalfMoon Seminars, Lexington, KY, March 6, 2019
- Waters of the United States Forecast: Continued Cloudiness, No End in Sight
  Stites & Harbison Client Alert, March 19, 2018
- Continued Turbulence in 'Waters of the United States'
  presented at the Kentucky Journal of Equine, Agriculture, and Natural Resources Law 4th Annual Innovation and Advancement Symposium, February 28, 2018
- Projects push growth in legal expertise
  by Susan Gosselin, *The Lane Report Northern Kentucky Market Review*, February 14, 2018
- What Are Waters of the United States? Why It Matters
  Stites & Harbison Legal Update, July 28, 2017
- Coal Bankruptcies: Current Issues
  presented at the EMLF 37th Annual Institute, Charlestown, S.C., June 14, 2016
- 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 W. Blaine Early III*
- Financial Assurances, Suretyship and Bonding
  2015 Kentucky Mineral Law Conference, Energy & Mineral Law Foundation, October 22, 2015
- State and Federal Reclamation Bonding Programs: Lessons Learned and Current Challenges
  Interstate Mining Compact Commission, St. Louis, Mo., 2013
- “First, Do No Harm” Should Extend to the Environment
  Becker's Hospital Review, January 16, 2013
- A new era in the coal industry under Clean Water Act Section 404
  Mining Committee Newsletter, Vol. 6, No. 1, ABA Section of Environment, Energy & Resources, May 24, 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 W. Blaine Early III*
- Current and Emerging Legal Issues on Mountaintop Removal Coal Mining
  ,with W. Blaine Early III Webinar presented by BloombergBNA, February 28, 2012
- Waters of the United States: Federal Jurisdiction Over Activities on My Land?
  Kentucky Bar Association's *Bench and Bar*, November 2011

- Understanding Waters of the United States and Federal Jurisdiction on Private Property
  presented at University of Kentucky College of Agriculture, November 2011
- The Law of Commercial Surety and Miscellaneous Bonds (Second Edition)
  Chapter: Reclamation Bonds, American Bar Association, Tort, Trial and Insurance Practice Section, 2011
- Waters of the United States: Following Clean Water Act § 404 Jurisdiction Upstream
  Kentucky Water Laws and Regulations, HalfMoon Seminars, Lexington, Ky., March 2011
- "Green" marketing under FTC scrutiny
  Stites & Harbison, PLLC, Client Alert, November 24, 2010
- Environmental/Reclamation Financial Assurances: Back to the Future
  56th Annual Rocky Mountain Mineral Law Annual Institute, Banff, Alberta, Canada, July 22-24, 2010 ,*with W. Blaine Early III*
- Coal Industry Land Law
  HalfMoon Seminars, Lexington, Ky., January 22, 2010
- Understanding the reclamation surety relationship before and after operator default
  Rocky Mountain Mineral Law Foundation, Special Institute on Mine Closure, Financial Assurance and Final Reclamation, November 5, 2009
- The Suretys Perspective: Deja Vu All Over Again?
  U.S. Department of Interior Office of Surface Mining Appalachian States Annual Meeting, June 2009
- EPA Issues Final CAFO Rule
  University of Kentucky Economic and Policy Update, June 2009
- Construction Stormwater Permit Proposed Rule
  Stites & Harbison, PLLC, Client Alert, January 14, 2009
- Primer for Engineering and Technical Professionals regarding Reclamation and Environmental Surety Bonds
  published Nov. 2004, *Mining Engineering*, and presented to the Society of Mining, Metallurgy and Exporation Annual Meeting, Cincinnati, Oh., 2003
- Surety's Rights and Obligations Under SMCRA
  ,*with W. Blaine Early III* Energy and Mineral Law Foundation's 29th Mineral Law Conference, October 14-15, 2004
- Surety Bonds and Trouble in the Mining Industry
  Conference of Government Mining Attorneys, Knoxville, Tenn., 2003
- Optimizing Land Reclamation and Environmental Protection: Making the Most Out of Surety Agreements
  Interstate Mining Compact Commission 2002 Annual Meeting
- Regulation of Concentrated Animal Feeding Operations and the Horse Industry: EPA is Mucking About!
  16th Annual National Conference on Equine Law, Lexington, Ky., 2001
- Legal Considerations Pertaining to Use and Disposal of Coal Combustion By-Products
  20 Energy & Mineral Law Institute, Chapter 11, Energy and Mineral Law Foundation, 2000

- Legal Considerations Pertaining to Use and Disposal of Coal Combustion By-Products
  presented to the Energy & Mineral Law Foundation, 1999
- Replacing Nationwide Permit 26 - The Next Battle Over Wetland Development
  The Construction Lawyer, Journal of the American Bar Association Forum on the Construction Industry, Vol. 18, No. 1, 1998
- In Front of the Curve: A Call for Awareness of Environmental Liability for CCBs in the United States
  presented at Air and Waste Management Association Annual Meeting in Toronto, Ontario, 1997, and presented at the International Ash Utilization Symposium, Lexington, Ky., 1995

MEMBERSHIPS

- American Bar Association
- Kentucky Bar Association
- Pennsylvania Bar Association
- Energy and Mineral Law Foundation

COMMUNITY INVOLVEMENT

- Kentucky Bicycle and Bikeway Commission
- Kentucky Rails to Trails Council, Inc., Pro-Bono Legal Counsel
- Energy and Mineral Law Foundation, Trustee

EDUCATION

- University of Kentucky College of Law J.D., with distinction, 1988
- Pennsylvania State University B.S., Man-Environment Relations, emphasis in Natural Systems, 1976

MORE THAN STITES & HARBISON

Prior to attending law school, Bill was the manager of the Kentucky office of Skelly & Loy Engineers-Consultants and had managed natural resource development and environmental remediation projects throughout the United States. At Skelly & Loy, he developed the mine land reclamation programs under the Title IV of the Surface Mine, Control and Reclamation Act for Alaska and Virginia. He also managed technical projects for the U.S. Department of Interior, U.S. Bureau of Mines, U.S. EPA, Appalachian

Regional Commission and numerous state agency and private sector clients. He was appointed by Kentucky Governor Andy Beshear to The Kentucky Bicycle and Bikeways Commission and has also advised the Kentucky Rails to Trails Council, Inc. on a pro bono basis, formed as part of the nationwide movement to develop abandoned rail beds into trails for recreation use. Bill is Assistant Professor/Adjunct at the University of Kentucky in the Natural Resource and Environmental Science Program teaching Environmental Law and Regulation. He is also a Trustee to the Energy and Mineral Law Foundation. An avid cyclist, Bill has been a spin instructor at the Lexington YMCA. In 2010, Bill joined a group of amateur cyclists who participated in six stages of the Tour de France.

ACCOLADES

- *Martindale-Hubbell*® AV-Preeminent® Peer Review Rated
- *Best Lawyers in America*®, Energy Law, Environmental Law, Mining Law and Natural Resources Law (2007-26)
- *Best Lawyers in America*®, Lexington Area Lawyer of the Year for Environmental Law (2022, 2024)
- *ChambersUSA, "America's Leading Lawyers for Business,"* Environment, Natural Resources & Utilities: Environment (2012-26)
- *Benchmark Litigation* magazine, Litigation Star (2015-26)
- International Law Office and Lexology, Client Choice Award for Excellence in Client Service (2015)