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Attorney at Law

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- LAW PRACTICE:** Founding Partner, Rossmann and Moore, LLP. Directing, conducting and resolving major litigation concerning natural resources, land use, energy, constitutional and administrative authority, and cultural preservation; counseling and teaching in these fields.
- John and Elizabeth Boalt Lecturer Water Resources and Land Use Law, University of California, Berkeley (Boalt Hall).
- Admissions:* United States Supreme Court (1979), California (1972), New York (1980), District of Columbia (1979).
- Attorney Positions:* Independent Firm, Sacramento, San Francisco, 1976-1982; San Francisco, Berkeley 1985 –. Counsel, McCutchen, Doyle, Brown & Enersen, San Francisco, 1982-1985. Executive Director, National Center for Preservation Law, 1979-1980; Counsel, 1980-1981. Associate, Tuttle & Taylor, Los Angeles, 1972-1975.
- Major Assignments:* Counsel to California Counties on Groundwater Regulation (1976— (more than half of California's 58 counties). Counsel to the City of South Pasadena, 1988— (preventing 710 freeway construction). Special Deputy Attorney General, State of Nevada, 2000—(opposition to Yucca Mountain Nuclear Waste Site). Counsel to the County of Imperial, 1997-2015 (groundwater regulation and Colorado River water use). Special Counsel to the County of Inyo, California, 1976-1997 (Owens Valley groundwater dispute and settlement). Consultant on Water Resources Law, U. N. Food and Agricultural Organization (Rome), 2012-2013.

Counsel to County of Butte, 2006— (relicensing of Oroville Dam and Reservoir).

Counsel to Planning and Conservation League, 1995-2014 (State Water Project amendments; exceptional CEQA legislation).

Counsel to County of Merced, 1999-2010 (land use planning for new UC campus and community).

Special Counsel to Churchill County and City of Fallon, Nevada, 1996-2001 (Truckee-Carson-Pyramid Lake Settlement Act).

Special Counsel to County of Napa, 1997 — (enactment of groundwater ordinance).

Counsel to City of Livermore, 1998-2001 (Livermore Valley water transfers).

Counsel to City of Pleasanton, 1995-2013 (land and water use strategies).

Counsel to City of Santa Cruz, 1999-2005 (public trust lands issues).

Special Counsel to County of Sutter, 1994-1998 (defense of land use decisions and referendum).

Counsel to Stanford University, 1984-1990 (land use and development).

Counsel to Palo Alto Medical Foundation, 1989-1995 (land use and development).

Special Counsel to the County of Nye, Nevada 1989-1994 (opposition to groundwater extraction for export).

Legal advisor and counsel to the Mono Lake Committee, 1976-1991 (water resources combining public trust and CEQA doctrines).

Special Counsel to the County of Sonoma, 1985-1991 (land use litigation).

Counsel to the County of Santa Cruz, 1988-1998 (water resources management).

Counsel to the City of Beverly Hills, 1983-1987 (land use issues).

Counsel to Tejon Ranch Company, 1981-1986 (land and water development for largest contiguous holding in state).

Legal Consultant to the Governor of Nevada, 1981-1982 (MX-project opposition strategy).

Special Counsel to the California Energy Commission, 1979-1981 (state's nuclear power litigation).

Special Counsel to the City of Claremont, 1979-1988 (general plan, TDR implementation).

Special Counsel to the Director, California Department of Forestry, 1977-1978 (preservation of redwoods pending national park expansion).

Special Counsel to the Secretary of the California Business and Transportation Agency, 1976-1977 (application of due-on-sale prohibitions to federal S&Ls).

Counsel to San Francisco Marathon, 1982-1992 (city-permit, sponsorship, licensing).

Counsel to Western States Endurance Run, 1985— (forest resource management, Congressional and Forest Service review of trail use, national trail designation).

GOVERNMENT
SERVICE:

Public Advisor, California Energy Commission, 1975-1976.

Law Clerk to Justice Mathew O. Tobriner, California Supreme Court, 1971-1972.

CAMPAIGN SERVICE:

Obama Presidential Campaign, 2007-2008 (Co-Coordinator, Northern California Voter Protection; McGovern Presidential Campaign, 1972 (Chair, California Veterans and Military for Mc Govern).

ACADEMIC
SERVICE:

John and Elizabeth Boalt Lecturer, University of California, Berkeley (Boalt Hall) 1991 —.

Lecturer, Stanford Law School, 1990; Fulbright Lecturer on Constitutional Law, University of Tokyo and Rikkyo University, Japan, 1987-1988; Visiting Professor of Law, UCLA School of Law, 1985-1987; Adjunct Professor of Law, Hastings College of the Law, 1981-1984; Lecturer, Environmental Studies, University of California, Davis, 1977.

Consultant on Water Resources Law, U. N. Food and Agricultural Organization (Rome), 2012-2013.

Faculty: American Law Institute, Practicing Law Institute, University of California Extension, CLE International, California Water Law and Policy Reporter.

Editorial Advisory Board: California Water Law and Policy Reporter, Harvard Environmental Law Review, Environmental Law Reporter, Preservation Law Reporter, Western Resources Litigation Digest.

Delegate: National Committee on US-China Relations Land Use and Public Participation, 2009 (China); Pacific (formerly Japan-U.S.) Environmental Conference, 1980 (California), 1982 (Japan), 1985 (California and Washington, D.C.), 1987 (Japan); Shiga Conference on World Lake Environment, 1984 (Japan).

BAR AND COMMUNITY
SERVICE

Chairman and Member, California State Bar Committee on the Environment, 1978-1982. San Francisco Bar Committee on the Environment, 1978-1979. Member: American Bar Association, 1976—; State Bar of California, 1972—; District of Columbia Bar Association, 1979—; Association of the Bar of the City of New York, 1980-1990; Los Angeles County Bar Association, 1988-1999.

Directorships: Western States Endurance Run, 1986— (President, 1991-1996; Counsellor, 1996—; Secretary 1987-1991); California Planning & Conservation League, 1984-2014; Secretary and Chancellor, St. Clement's Church, Berkeley, 2004-2007; Berkeley Public Education Foundation, 2014—; Tuolumne River Preservation Trust, 1984-1994; Mathew O. Tobriner Memorial Committee, 1982—; Pamakid Runners Club, 1989-2006; California Water Protection Council (1982 Water Reform Initiative), 1981-1983; Committee to Save the Theaters (New York City), 1982-1985; Toward Utility Rate Normalization, 1976-1979 (President, 1978-1979).

Class and Area Steering Committees, The Harvard Fund and Campaign, 1971—; Harvard Law School Fund, 1981—; Scholarship Chairman, Harvard Club of San Francisco, 1984-1987; Director, Harvard Club of San Francisco, 1979-1982, 1984-1990 (Secretary, 1988-1990); Secretary, Harvard Club of Japan, 1966-1968; Co-Chair, Harvard Law School Class of 1971 25th Reunion, 1996; President, Harvard Law School Assn. of Northern California, 1997-2002; Chair, Environment Section, Harvard Law School Ass'n, 2001-2006.

HONORS AND AWARDS

Los Angeles Daily Journal Top 100 California Attorneys (2010); Northern California Super Lawyer (2004-2010); Friends of the River Mark Dubois Award (2011); Planning and Conservation League Carla Bard Award (2001); Harvard Law School Association Award (2001); Western States Endurance Run Lifetime Service Award (1995); Friends of the River American River Award (1991); Pamakid Runners Volunteer of the Year (2013), Lifetime Service Award (1990); Western States Endurance Run Friend of the Trail Award (1987).

LEGAL
EDUCATION:

Harvard Law School, Class of 1971, with honors. Editor, Harvard Law Review; Founder and Chairman, Harvard Environmental Law Society; Co-Chairman, Financial Aids Committee; Book Review Editor, Harvard International Law Journal.

COLLEGE
EDUCATION

Harvard College, Class of 1963, with honors in Modern Asian and European History. Crimson Key Society (University Hosts); Senior Sculler.

NAVAL SERVICE

Active duty, U.S. Navy, 1963-1968, Summer 1969; Lieutenant Commander, U.S. Naval Reserve. Destroyer Officer, East Asia, 1964-1966; Naval Intelligence, East Asia, 1966-1968. Joint Service Commendation Medal, Navy Unit Commendation Ribbon, Vietnam Service Medal (3 stars).

ATHLETICS:

Harvard University Sculling Coach, 1970-1971; Harvard University Sculling Champion, 1969-1970; Mixed Doubles Sculling Champion, Head of the Charles Regatta, 1970; Finisher, Western States, Leadville Trail, and Vermont 100 Mile Endurance Runs; Race Official, 1984 Olympic Marathons; San Francisco Marathon Committee, 1982-1989; Western States Endurance Run Board of Directors, 1986— (President, 1991-1996); Producer, Stanford Centennial 100K Trail Run and Palo Alto Centennial 100K Running Festival; Certified Referee, U.S. Soccer Federation (State Referee) and American Youth Soccer Organization (National Referee); Certified Soccer Coach (Class E License), Rockridge Tough Tigers.

MAJOR CASES:

Planning and Conservation League v. Department of Water Resources (2001-2003) (environmental review and renegotiated modifications of State Water Project contracts).

Negotiated:

City of Livermore v. Zone 7 (Sacramento Superior Court, 1999-2000) (restrictions on water transferred into Livermore Valley for use outside Alameda County).

City of Los Angeles v. Board of Supervisors (Third District Court of Appeal and Inyo County Superior Court, 1983-1997) (joint Inyo-LA regulation of Owens Valley groundwater; rewatering of Owens River).

County of Inyo v. FERC (Ninth Circuit 1989-1991) (stipulated remand to FERC produces revised project conditions that lead to abandonment of Owens Valley hydro project).

Lake Country Estates v. Tahoe Regional Planning Agency (E.D. Cal. 1983-1984) (public acquisition of environmentally sensitive parcel).

City of Beverly Hills v. City of Los Angeles (unfiled, 1984-1985) (conformance of Century City development to master plan).

San Francisco Federal Reserve Bank, S.F. Heritage and Embarcadero Center West (unfiled, 1982-1983)(sale of federal landmark building to developer preserving structure).

Litigated:

County of Inyo v. City of Los Angeles (II) (1976) 61 Cal.App.3d 91 (appellate jurisdiction and relief); *(III)* (1977) 71 Cal.App.3d 185 (Owens Valley groundwater management); *(IV)* (1978) 78 Cal.App.3d 82 (attorneys' fees); *(V)* (1980) 124 Cal.App.3d 1 (groundwater management); *(VI)* (1984) 160 Cal.App.3d 1178 (dispute resolution); *(VII)* (1993) Cal.App. unpublished (appellate jurisdiction); *(VIII)* (1997) (final resolution and dismissal).

County of Inyo v. Public Utilities Comm. (1980) 26 Cal.3d 154 (PUC jurisdiction over municipal utilities in Owens Valley).

Woodland Hills Residents Assn. v. City Council (I) (1975) 44 Cal.App.3d 825 (community planning consistency); *(II)* (1979) 23 Cal.3d 917 (public interest attorney's fees); *(III)* (1980) 26 Cal.3d 938 (political contributions to land use adjudicators).

Pacific Gas & Electric Co. v. State Energy Comm. (N.D. Cal. 1980) 489 F.Supp. 699, *reversed*, (1983) 461 U.S. 190, (9th Cir. 1981) 659 F.2d 903; *Pacific Legal Fdn. v. State Energy Comm.* (S.D. Cal. 1979) 472 F.Supp. 191 (constitutionality of state nuclear laws).

Herrington v. County of Sonoma (9th Cir. 1988) 834 F.2d 1488, *modified*, 857 F.2d 567, *cert. denied*, (1989) 109 S.Ct. 1557 (county defense against landowners' civil rights claims).

Herrington v. County of Sonoma (9th Cir. 1989) 883 F.2d 739, *modifying* (1987) 655 F. Supp. 1111 (attorneys' fees).

Churchill County v. Norton (9th Cir. 2001) 276 F.3d 1060, *modified*, (2002) 282 F.3d 1055 (environmental assessment of Truckee-Carson-Pyramid Lake Water reallocation program).

Churchill County v. Babbitt (9th Cir. 1998) 150 F.3d 1072, *modified*, 158 F.3d 491 (standing of county and city to challenge Truckee-Carson-Pyramid Lake water reallocation program).

City of South Pasadena v. Slater (C.D.Cal. 1999) 56 F. Supp.2d 1106 (injunction against Route 710 Freeway); 56 F.Supp.2d 1095, (9th Cir. 2002) 284 F.3d 1154 (state law claims in federal court)

City of South Pasadena v. California Department of Transportation (1994) 29 Cal. App.4th 1280 (enforcing requirement for city's consent to 710 freeway construction).

Planning and Conservation League v. Department of Water Resources (I) (1998) 17 Cal. 4th 264 (appellate review of validation orders); *(II)* (2000) 83 Cal.App.4th 892 (invalidity of CEQA review for State Water Project Monterey Amendments).

Planning and Conservation League v. State of California, Alameda County Super. Ct. (2013) (unconstitutionality of AB 900 attempt to force CEQA cases directly to Court of Appeal).

Allegretti & Co. v. County of Imperial (2006) 138 Cal.App.4th 1261 (defense of takings claim arising from groundwater regulation).

Nuclear Energy Institute v. EPA (D.C. Cir. 2004) 373 F.3d 1251 (invalidation of Yucca Mountain radiation standards).

County of Imperial v. Superior Court (State Water Resources Control Bd.) (2007) 152 Cal.App.4th 13 (indispensable parties in Colorado River QSA litigation).

Quantification Settlement Agreement Cases (2011) 201 Cal.App.4th 758 (validity and environmental assessment of Colorado River water transfer).

Tyler v. Cuomo (9th Cir. 2000) 236 F.3d 1124 (NHPA section 106 memorandum agreement enforceability).

Prentiss v. City of South Pasadena (1993) 15 Cal.App.4th 85 (regulation of historic building modification).

216 Sutter Bay Associates v. County of Sutter (1997) 58 Cal.App.4th 860 (county defense of development agreement rescissions to implement election results.)

Kemper v. City of Palo Alto (Palo Alto Medical Fdn.) (1993) Cal.App. unpublished (defense of entitlement to expand medical facility).

North Valley Coalition v. County of Los Angeles (1994 & 1993) Cal.App. unpublished (environmental assessment of Sunshine Canyon landfill proposal).

Berg v. Town of Ross (1993) Cal.App. unpublished (defense of town open-space provision).

Woodland Hills Homeowners Organization v. Los Angeles Community College District (1990) 218 Cal.App.3d 79 (constitutionality of lease to religious organization).

Friends of the Orinda Theater v. County of Contra Costa (1986) 182 Cal.App.3d 1145 (landmark theater preservation).

Anne B. v. State Board of Control (1985) 165 Cal.App.3d 279 (award of victim benefits to rape victim).

Honey Springs Homeowners Ass'n. v. Board of Supervisors (1984) 157 Cal.App.3d 1122 (agricultural preserve cancellation).

California Water Protection Council v. Eu (Cal. Super. Ct. 1982) (legality of 1982 Water Reform Initiative; invalidity of ballot analysis and arguments).

New Yorkers to Preserve the Theater District v. Landrieu (2d Cir. 1981) 661 F.2d 910; *NRDC v. City of New York* (2d Cir. 1982) 672 F.2d 292, (S.D.N.Y. 1981) 528 F.Supp. 1245 ("Helen Hayes" and "Morosco" theater preservation).

ILWU v. Board of Supervisors (1981) 116 Cal.App.3d 265 (exemptions from environmental review requirements).

Citizens Task Force on Sohio v. Board of Harbor Comm'rs (1979) 23 Cal.3d 812 (environmental review of marine Alaskan oil terminal).

Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco (1980) 106 Cal.App.3d 893 (substantive review of "City of Paris" landmark demolition).

Laurel Hills Homeowners Assn. v. City Council (1978) 83 Cal.App.3d 515 (substantive review of land development).

Arcata Redwood Co. v. State Board of Forestry (Cal. Super. Ct. 1977) 7 Env.L.R. 20755 (authority to impose redwood logging moratorium in proposed national park).

People ex rel. Secretary of Glendale Fed. & L Assn. (C.D. Cal. 1976) unreported and remanded (constitutionality of due-on-sale clause prohibitions).

McDonnell Douglas Corp. v. United States District Court (9th Cir. 1975) 523 F.2d 1083 (mass tort class decertification in Paris DC-10 crash).

Brooks v. Reagan (N.D. Cal. 1973) unreported (constitutionality of California avocado standards).

Mission Canyon Landfill Conditional Use Application (L.A. City Council & Planning Comm., 1973-1982) (denial of landfill in residential neighborhood).

California v. FERC (1990) 495 U.S.490 (preemption of state water flow regulations) (*amicus curiae*)

San Diego Gas & Electric Co. v. San Diego (1981) 450 U.S. 621 (constitutionality of open space zoning; finality of state decisions) (*amicus curiae*).

National Audubon Society v. Superior Court (Dept. of Water & Power) (1983) 33 Cal.3d 419 (public trust in appropriated waters feeding Mono Lake) (*amicus curiae*).

Baldwin v. County of Tehama (1994) 31 Cal.App.4th 166 (authority of California counties to regulate groundwater) (*amicus curiae*).

Kollsman v. City of Los Angeles (9th Cir. 1984) 737 F.2d 830 (defense of taking claim for land use restriction) (*amicus curiae*).

PUBLICATIONS:

HISTORIC PRESERVATION (Matthew Bender 1998) CALIFORNIA ENVIRONMENTAL LAW AND LAND USE PRACTICE [co-author].

ADMINISTRATIVE AND JUDICIAL LITIGATION (C. Duerksen ed. 1983) HISTORIC PRESERVATION LAW HANDBOOK.

County Groundwater Regulation: Half a Governor's Commission Legacy Is Better Than None (2004) 36 MCGEORGE LAW REVIEW No. 2.

Forging the New Water Law: Public Regulation of "Proprietary" Groundwater Rights (1982) 33 HASTINGS LAW JOURNAL 903 [co-author].

Groundwater Dispute, 1970--: Water for the Valley (G. Smith ed. 1978) DEEPEST VALLEY.

Public Participation in the California Energy Resources Conservation and Development Commission (1976) HEARINGS ON S. 2715 BEFORE THE S. COMM. ON THE JUDICIARY, 94TH CONG., 2D SESS.

Bring Us Law to Match Our Rivers (2008) 18 CAL. WATER LAW & POLICY REP. 99.

Allegretti v. County of Imperial: Return to Reason (2007) 17 CAL. WATER LAW & POLICY REP. 187.

Forging Solutions on the Colorado River (delivered to Colorado River Water Users Assn. 2005) (2006) 16 CAL. WATER LAW & POLICY REP. 159.

Peace on the River in California: Not Quite (delivered to Colorado River Water Users Assn. 2003).

A New Law and the "Era of Limits" on the Colorado (2003) 18 ABA NATURAL RESOURCES & ENVIRONMENT, No. 2 at 3.

The 25-Year Legacy of Friends of Mammoth (1997) 6 Cal. State Bar Environmental Law News, No. 3/4 at 4; (1998) 21 U.C. Davis Environs 63.

The Contribution of Historic Preservation to Constitutional Law (1997) 6 CAL. STATE BAR ENVIRONMENTAL LAW NEWS, No. 3/4 at 13.

Groundwater Regulation After Baldwin v. County of Tehama (1995) 4 LAND USE & ENVIRONMENT FORUM 237.

NEPA: Not So Well at Twenty (1990) 20 ENVIRONMENTAL LAW REPORTER 10174.

American Citizen Initiatives To Create Legal Mandates for Lake Conservation (1984) SHIGA CONFERENCE '84 PROCEEDINGS.

Can California Impose a Public Trust on Tidelands She Never Owned? (1984) ABA PREVIEW 404.

Public Trust in Appropriated Waters: California Supreme Court Decides The Mono Lake Case (1983) ENVIRONMENTAL LAW REPORTER; WESTERN RESOURCES LITIGATION DIGEST; HASTINGS COMMUNITY.

Restore Public Trust to Water Law (2012) Sacramento Bee

Farewell to the Battleship Iowa (2012) San Francisco Chronicle

Governor Completes Circle on L.A. Freeway Project (2011) Los Angeles Daily Journal.

Why the County is in Court (2009) Imperial Valley Press.

Owens River: Lesson in Collaborative Good (2006) Sacramento Bee.

The Law of the River (2003) New York Times.

Water Crisis Is Brewing, and the Colorado River Runs Through It (2002) Los Angeles Times.

Valley Secession Won't Hold Water (1996) Los Angeles Times.

A "Do List" for Wilson's First Month on the Job (1990) Los Angeles Times [co-author].

Reallocation is the West's Best Hope for Water (1990) San Francisco Recorder [review of M. REISNER & S. BATES, OVERTAPPED OASIS].

State High Court Continues Generous Policy on EIRs (1988) Los Angeles Daily Journal.
Court-Martial for North, Poindexter (1988) Sacramento Bee.

Shiraho Reef: Testing Japan's Commitment to the Environment (1988) Japan Times.
Supreme Court Can Enforce Diet Reapportionment (1987) Japan Times.

Keep the Marathon on Course (1987) San Francisco Chronicle.

A Chance For Peace at Crowley Lake (1986) Los Angeles Times.

In Race of Endurance, A Victory for the Spirit (1986) Los Angeles Times.

Water Lessons for New York (1985) New York Times.

Westmoreland Owes His Men Justice (1985) Los Angeles Times.

U.S. Lawyers Run Amok in India -- and in Jurisprudence (1984) Los Angeles Times; San Francisco Chronicle (sub nom. *U.S. Lawyers and Legal Imperialism*).

Warring Parties Must Learn to Cooperate on Mono Water (1983) Los Angeles Times.

Saying No To More (1982) New York Times.

California Water: Where Do We Go From Here? (1982) California Journal; Los Angeles Daily Journal.

Political Reform: The Unfinished Task (1982) California Journal.

Water Sharing: We Reach a Milestone (1977) Los Angeles Times.

The Public's Role in Regulatory Affairs (1975) Los Angeles Times.

The Activists: Environmental Law at Harvard (1970) Harvard Law School Bulletin.

How Should Harvard Vote Its Stock in General Motors? (1970) Harvard Magazine.

Twenty Years Running (1997) San Francisco Marathon Program [official race history].

Numerous articles on long-distance and endurance running in *Running Times*, *Ultrarunning*, *Marathon and Beyond*, and local running club newsletter (1985--).