



Martin K. Banks

Shareholder

Environmental Litigation

Marty Banks is a shareholder of Parr Browns' environmental litigation practice group. His practice includes litigation in front of state courts (District Court, Court of Appeals and Supreme Court) as well as federal courts (District Court and Tenth Circuit) courts. His environmental litigation practice also includes litigation in front of state administrative bodies (e.g., the Utah Air Quality Board and the Utah Board of Oil, Gas and Mining) and federal administrative bodies (e.g., the EPA Environmental Appeals Board and the Interior Board of Land Appeals). He has broad experience litigating issues involving the Clean Air Act, the National Environmental Policy Act, the Endangered Species Act, the Clean Water Act, and numerous other federal environmental statutes and programs. Notably, he has extensive experience litigating under the federal Administrative Procedures Act. Marty also has extensive experience litigating other related environmental matters, including toxic tort matters, contaminated property issues, mining and natural resource matters, water right disputes and various land use issues.

Prior to joining Parr Brown Marty was a partner at Stoel Rives. He was also formerly a trial attorney at the U.S. Department of Justice (1991-1994), and an associate at White & Case (1989-1991).

Representative Environmental Litigation Work

Clean Air Act

- *State of Utah v. EPA* - Represented interveners before the Tenth Circuit in challenge to EPA's disapproval of Regional Haze State Implementation Plan.
- *Sierra Club v. Utah Division of Air Quality, PacifiCorp* - Defended intervening public utility in connection with a citizen suit challenge to an air permit issued by Utah DAQ under the Utah Air Conservation Act.
- *EPA v. Bogue Diesel* - Represented diesel service company in connection with civil and criminal allegations relating to alleged violations of the CAA in connection with the marketing and installation of emission control devices.
- Utah Division of Air Quality - Coordinated permitting of expansion and ownership transfer of major electric generating facility.
- *EPA v. Washakie Renewable Energy* - Represented biofuel processor in connection with civil and criminal EPA enforcement matter under the CAA

CONTACT INFORMATION

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PRACTICE AREAS

Occupational Safety & Health Law (OSHA)
Natural Resources Law
Energy and Utilities
Environmental Law
Mining Law
Water Law
Land Use and Zoning
Commercial Litigation Services
Environmental Litigation

EDUCATION

- ▶ 1989, J.D. Order of the Coif, George Washington University National Law Center, George Washington Journal of International Law

- ▶ 1985, B.A., cum laude, Brigham Young University

BAR ADMISSIONS

- ▶ 1989, Utah
- ▶ 1990, District of Columbia

relating renewable energy credits.

- *Utah Division of Air Quality v. Geneva Rock* – Defended sand and gravel operator in connection with enforcement actions relating to alleged violations of air quality regulations.
- *Utah Division of Air Quality v. Sunroc* – Defended aggregate operator in connection with alleged violations of air quality regulations and associated air permit modifications.

Clean Water Act (and Wetlands)

- *Phillips v. Army Corps of Engineers/EPA* – Representing property owners in action against Army Corps of Engineers, asserting APA and CWA violations in connection with Corps and EPA’s approved jurisdictional determination.
- *Friends of Great Salt Lake v. Utah Division of Water Quality* – Defended industrial metal manufacturer against civil claims by NGOs pertaining to permitting and discharges.
- *EPA v. Village Cleaners* – Represented owner and operator of large chain of dry cleaner facilities in connection with civil claims relating to alleged groundwater contamination.
- *Sierra Club v. BLM* – Defended Intervenor PacifiCorp before U.S. Interior Board of Land Appeals in challenge to BLM’s grant of right-of-way for mine drainage pipeline.
- *Army Corps of Engineers v. Homeowners Association* – Defended waterfront homeowners association in CWA wetland permitting and fill action.
- *Agribusiness v. Army Corps of Engineers* – Represented agricultural property owner with wetland permitting and enforcement matter.

CERCLA, Voluntary Cleanup Programs, Brownfields Projects

- *EPA v. Ekotek* – Represented multiple major potentially responsible parties in the first and largest CERCLA Superfund site established in the State of Utah (the Ekotek site), and in that effort played a leading role on the PRP Committee during the several year litigation undertaking.
- *EPA v. Property Owners* – Defended EPA against counterclaims in various CERCLA and RCRA actions across several states.
- *Henricksons v. EBCo* – Obtained dismissals of several defendants, and favorable settlements in CERCLA, RCRA and ground water toxic tort claims.
- Various Property Owners – Assisted large manufacturing client manage historical chemical releases and off-site soil and groundwater impacts to adjacent property owners.
- EPA & Utah DEQ – Assisted numerous owners of contaminated properties achieve cleanup, closure and liability releases through various voluntary cleanup programs, no further action protocols and other cleanup programs.
- *Stevens v. EBCo* – Defended CERCLA, RCRA and toxic tort claims for personal injury and property damage relating to alleged exposure to migrating groundwater contamination.
- *Diamond Parking v. ANR Trucking* – Represented owner and operator of airport parking lot in asserting CERCLA, RCRA and common law claims against prior owners and operators for historic unremediated environmental contamination.

NEPA

- *Wildlands Defense v. PacifiCorp, Idaho Power* – Assisted public utilities with NEPA permitting of multi-segment Gateway West transmission line from Wyoming to Idaho. Intervened and obtained dismissals of all

challenges to BLM's approval of initial segments, For subsequently approved remaining segments, we filed request for reconsideration and obtained alternative preferred alignments.

- *Snowbird v. United States* – Represented Snowbird Ski Resort in a successful Mandamus Act matter forcing U.S. Forest Service to issue special permit for expansion of ski resort.
- *Save Our Canyons v. Snowbird and U.S. Forest Service* – Defended challenges to various ski resort expansion projects (lifts, boundary expansions, buildings, etc.) at the administrative, federal district court and federal appellate court levels (including Tenth Circuit).
- *Save Our Canyons v. U.S. Forest Service, Snowbird Ski Resort* – Defended intervening resort owner in citizen suit challenges to various resort expansion projects (lifts, boundary expansions, buildings, etc.).
- *Living Rivers, Sierra Club, et al. v. BLM and FWS* – Represent intervenor oil shale developer against challenges to BLM grant of easement for a utility corridor to access proposed energy project.

Toxic Torts

- *Bertaut v. U.S. Department of Health* – Led trial team defending federal Centers for Disease Control and Prevention in toxic tort claims relating to vaccinations, resulting in finding of no liability.
- *Williams v. SGL* – Defended industrial manufacturer against toxic tort claims for personal injury relating to alleged exposure to air toxins.
- *Nemelka v. Ensign-Bickford* – Represented large chemical manufacturer against personal injury and property damage claims alleging damages from purported exposure to chemicals seeping into ground and travelling downstream via groundwater.

Solid & Hazardous Waste (RCRA)

- *Utah Department of Environmental Quality v. Reilly* – Represented chemical manufacturer in RCRA enforcement action involving state and federal environmental regulators.
- Metro Recycling – Assisted large recycler with permitting and compliance issues relating to a variety of solid and hazardous wastes.

Radioactive Waste

- *Energy Capital Partners* – Assisted with the environmental due diligence in acquisition of a significant radioactive waste repository, including renewal of radioactive waste license.
- *Developer of Uranium Mining Site* – Assisted developer of former uranium mining site obtain clearance under Utah Voluntary Cleanup Program.

Drinking Water Act

- *Utah Division of Drinking Water v. Sandy City* – Represented municipality in connection with fluoride release, lead and copper investigation, and associated Notice of Violation and Administrative Order.
- Uintah County Ordinance and Conditional Use Permit – Assisted mineral lessee with County's development of Drinking Water Protection Ordinance, and obtained of mining and conditional use permits for exploratory activities

Environmental Land Use

- *Living Rivers v. Enefit* – Represent intervenor oil shale developer against challenges to BLM grant of easement for a utility corridor to access proposed energy project.
- *Williams v. Carbon Fiber Manufacturer* – Defended manufacturer against

claims relating to alleged exposure to purported toxic indoor air contamination in the workplace.

- *Ron Case v. Salt Lake County* - Successfully blocked variances to zoning restrictions in rural/agricultural area.

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