

May 11, 2011

Hearing  
on  
*EPA Mining Policies: Assault on Appalachian Jobs Part II*

United States House of Representatives  
Committee on Transportation and Infrastructure  
Subcommittee on Water Resources and Environment

Statement  
by  
M. Reed Hopper  
Principal Attorney  
Pacific Legal Foundation

Mr. Chairman, members of the committee, as an attorney with Pacific Legal Foundation, a nonprofit, public interest organization dedicated to the protection of individual liberties and private property rights, I wish to thank you for this opportunity to express my views on Environmental Protection Agency (EPA) § 404 enforcement policies under the Clean Water Act and how it affects the regulated community.

The EPA's exercise of its putative "veto" power to unilaterally revoke the § 404 "dredge and fill" permit issued to Mingo Logan Coal Company, for surface mining in Appalachia, three years after the fact, and after more than ten years of exhaustive environmental review, and without any change in circumstance or law, is emblematic of a growing trend among federal agencies to change the law for political ends. This is a remarkable breach of the public trust that breeds a justifiable skepticism of governmental motivations. I believe public officials should stand as fair and objective enforcers of the law and stop bending in the winds of political expediency. Public officials must be held accountable for blatant abuses of power. If they are not, we can expect to see a continuing erosion of our rights under the law. Therefore, I commend this committee for convening this hearing today.

The injustice of EPA's revocation of Mingo Logan's § 404 permit, is evident from the facts, which bear repetition here (as gleaned from the pleadings in *Mingo Logan Coal Co., Inc., v. United States Environmental Protection Agency*, Case No. 1:10-cv-00541-CKK, U.S. District Court for the District of Columbia).

Mingo Logan (a subsidiary of Arch Coal Company) owns a surface coal mine in West Virginia known as Spruce No. 1. In January, 2007, the Army Corps of Engineers (Corps) issued Mingo Logan a Clean Water Act § 404 permit authorizing the discharge of fill material into 8.11 acres of "waters of the United States," including 0.12 acres of wetland (an abandoned farm pond); 1.83 acres of storm runoff streams; 6.13 acres of seasonal streams, and 0.034 acres of permanently flowing streams. This permit was

issued after more than ten years of study and evaluation by the Corps, EPA, and other federal and state agencies. A full environmental impact statement (EIS) was prepared involving thousands of man-hours and multiple agencies, including the EPA. This was the only full EIS ever prepared for a mining project of this type. The Draft EIS covered 1,600 pages and the Final EIS included 58 pages specifically addressing EPA comments. The permit cost Mingo Logan millions of dollars and imposed substantial mitigation requiring the creation of new wetlands, enhancement of thousands of feet of existing streams, planting of thousands of trees and shrubs, and long-term monitoring to ensure compliance with all permit conditions. The permit was issued without EPA objection.

However, two and a half years after the Corps issued a § 404 permit to Mingo Logan, the EPA pressed the Corps to suspend, revoke, or modify the permit. By letter dated September 30, 2009, from Colonel Robert Peterson, District Engineer of the Corps, to William Early, Acting Regional Administrator of the EPA, the Corps refused to do so explaining such action was only authorized under 33 C.F.R. § 325.7 upon a consideration of five factors: the extent of the permittee's compliance with the terms of its permit; whether circumstances relating to the authorized activity have changed since the permit was issued; significant permit objections which were not earlier considered; revisions to law; and the extent to which permit suspension, revocation, or modification would adversely affect plans, investments, and actions the permittee has reasonably taken in reliance on the permit.

After a consideration of these factors and EPA concerns, the District Engineer determined that Mingo Logan was in full compliance with the permit, there were no changes in circumstances or the law requiring a change to the permit, and all objections had been addressed in the previous multi-year review.

The State Department of Environmental Review also issued a letter, dated November 25, 2009, affirming that Mingo Logan was in complete compliance with all water quality standards and castigating EPA for its mistaken factual assertions and for suggesting further National Environmental Policy Act (NEPA) review is required:

At some point, a project must be deemed to have been studied enough to meet NEPA's requirements. This is the most heavily studied and scrutinized surface mining coal operation in the history of a state which has a long history with the coal mining industry. It has previously been through an EIS, litigation before at least two federal trial courts and twelve years of continuing scrutiny by the WVDEP, USEPA, the Corps and other federal agencies. In addition, it has been examined by the State permitting quality control panel comprised of representatives of the environmental community, the coal industry, the WVDEP and the federal Office of Surface Mining Reclamation and Enforcement.

Having gained no support from either the Corps or the State, EPA initiated its own unilateral proceedings to suspend, revoke, or modify the Mingo Logan permit, three years after its issuance. *See Proposed Determination To Prohibit, Restrict, or Deny the Specification, or the Use of Specification (Including Withdrawal of Specification), or an Area as a Disposal Site; Spruce No. 1 Surface Mine, Logan County, WV, 75 Fed. Reg. 16788 (Apr. 2, 2010).*

Those proceedings were based on the EPA's claim of authority under a novel interpretation of § 404(c) of the Clean Water Act that authorizes EPA to prohibit, deny, restrict, or withdraw any specified disposal site. Although the EPA has used this "veto" power prior to the issuance of a § 404 permit, this

is the first time the EPA has sought to exercise that “veto” after a permit has been granted. Mingo Logan challenged the retroactive application of § 404(c) to existing permits in court with a compelling argument that EPA’s interpretation is inconsistent with prior practice, the language and structure of the Act, and is contrary to the will of Congress as recorded in the legislative history. For example, in the Report on the Committee of Conference, Senator Muskie stated:

**[P]rior to the issuance of any permit to dispose of spoil, the Administrator must determine that the material to be disposed of will not adversely affect municipal water supplies, shellfish beds, and fishery areas (including spawning and breeding areas), wildlife or recreational areas in the specified site. Should the Administrator so determine, no permit may issue.**

He added:

Thus, the Conferees agreed that the Administrator of the Environmental Protection Agency should have a veto power over the selection of the site for dredged spoil disposal and over any specific spoil to be disposed of in any selected site.

The decision is not duplicative or cumbersome because the **permit application** transmitted to the Administrator for review will set forth both the site to be used and the content of the matter of the spoil to be disposed. The Conferees expect the Administrator to be expeditious in his determination as to whether a site is acceptable or if specific material can be disposed of at such site.

I Legislative History at 161-339 (Oct. 4, 1972) (emphasis added).

Nevertheless, on January 19, 2011, EPA revoked the Mingo Logan permit. *See Final Determination of the Assistant Administrator for Water Pursuant to Section 404( c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, WV* (76 Fed. Reg. 3126). Aside from the questionable legality of EPA’s use of the § 404(c) “veto” power in this way, the agency’s revocation of a valid § 404 permit shows a disdain for property owners and a disregard for economic realities that is difficult to comprehend. If EPA can “veto” an existing § 404 permit, years after its issuance and even when the permit holder is in full compliance with all permit conditions, why would a permit holder risk expending thousands, or in the case of Mingo Logan, millions, of dollars in reliance on such a permit? The mere acquisition of a § 404 permit is already prohibitively expensive for many: “The average applicant for an individual permit spends 788 days and \$271,596 in completing the process, and the average applicant for a nationwide permit spends 313 days and \$28,915—not counting costs of mitigation or design changes. Sunding & Zilberman, *The Economics of Environmental Regulation by Licensing: An Assessment of Recent Changes to the Wetland Permitting Process*, 42 *Natural Resources J.* 59, 74-76 (2002). “[O]ver \$1.7 billion is spent each year by the private and public sectors obtaining wetlands permits.’ *Id.*, at 81,” *Rapanos v. United States*, 547 U.S. 715 (2006) (J. Scalia).

The EPA’s action against the Mingo Logan permit sets a dangerous precedent. One can predict with almost mathematical certainty that it will have a chilling effect on future projects and do incalculable harm to the local and national economy. The Corps processes tens of thousands of § 404 permits each year. Now, each of these permits is subject to recall by the EPA, at any time in the future. Under EPA’s

interpretation of its "veto" power, no permit holder receives a final permit on which he may rely. No matter how much effort, time, and cost, the permit holder may expend in permit preparation, acquisition, and compliance, he can never be sure he has a vested right in the permit issued. The EPA can snatch the permit away at any time. This is the very essence of arbitrary government.

The five-factor test for permit modification codified in 33 C.F.R. § 325.7, on which the Corps relied in its reconsideration of the Mingo Logan permit, at least recognized some fundamental limitations on federal power, which the retroactive EPA "veto" process does not. As noted above, before the District Engineer can revise or revoke an existing permit because of a change in circumstances, he must take into account the extent to which permit suspension, revocation, or modification would adversely affect plans, investments, and actions the permittee has reasonably taken in reliance on the permit. This factor is a necessary acknowledgment that when permit holders rely on a validly issued permit they obtain a property interest or vested right in the permit itself and it cannot be revised or revoked without regard to the economic impact on the permit holder. This is an essential safeguard against the "taking" of private property without just compensation prohibited by the Constitution. It is also a safeguard against the deprivation of a vested right without a fair process. As the State observed in its defense of the Mingo Logan permit: "At some point, a project must be deemed to have been studied enough." But the EPA "veto" process provides no such safeguards. To the contrary, it eviscerates the concept of finality in the § 404 permit process thereby undermining individual rights, public confidence in government institutions, and the economy.

Regrettably, Mingo Logan is not the only example of EPA's heavy-handed use of its § 404(c) "veto" power. In the Flood Control Act of 1941, Congress authorized the construction of the Yazoo Backwater Area Project located in west central Mississippi. An essential component of the project is the construction of a pumping station that will reduce the effects of catastrophic flooding in the lower Mississippi Delta. When that river floods, the natural gravitational flow of other, smaller rivers in the area is impeded, causing water to back up into the Backwater Area. That process has led to the regular flooding of 1,300 homes, and the damaging of 316,000 acres of agricultural land, with an average annual cost of \$7.7 million. The pumping station would force waters that otherwise would remain in the Backwater Area back over existing flood control structures to flow down the Mississippi.

In 1984, Congress received an EIS from the Corps setting forth the ecological effects of the proposed pumping station. Congress authorized funding for the pumping station and, in 1986, construction began. Shortly thereafter, construction was stopped due to the passage of the Water Resources Development Act that required localities to help defray the costs of federal flood control projects. When Congress repealed the cost-sharing provision in 1996 (allowing full federal funding of the project), the Corps began work on a supplemental EIS. In this document, the Corps presented a revamped pump project that would substantially increase environmental benefits including the planting of new vegetation across 55,000 acres that would enhance terrestrial and aquatic habitats.

In August, 2008, EPA "vetoed" the Yazoo Project, under § 404(c), claiming that it would harm wetlands. Pacific Legal Foundation attorneys are now representing the Board of Mississippi Levee Commissioners in challenging EPA's veto decision on the grounds that the pumping station component of the Yazoo Project is immune from veto, under § 404(r) of the Clean Water Act, because Congress received adequate information on the pumping station more than a year prior to Congress' fiscal

appropriation for the project; and the current version of the Yazoo Project addresses environmental concerns.

Congress promised area residents flood protection over 70 years ago, but the EPA is standing in the way of the final component, putting lives, property, and the ecosystem at risk. Unfortunately, residents in the south delta are facing more flooding this year as the Mississippi continues to rise.

Yet another case underscores EPA abuse of power. James Boyd and his family have owned the Smith Farm in Virginia for more than two decades. To remove excess water from their land, the Boyds proposed digging some drainage ditches on their property. To ensure they would not run afoul of any federal concerns, they hired a consultant who had worked for the Army Corps of Engineers for eight years. The consultant produced a letter from the Corps that outlined the procedures to dig such ditches without the need of a § 404 "dredge and fill" permit.

Before the Boyds started any land clearing on their farm, the Boyds met with the Corps and showed the Corps the designs for what they proposed to do. **They were advised that they did not need any permits for their project.** Nevertheless, the Boyds went a step further and asked Corps officials to inspect the site, specifically to ensure that all of their work was in compliance with the law. Pursuant to the Boyds' request, the Corps inspected the site on five separate occasions throughout the ditch excavation project. Despite the Boyds' specific request that the Corps advise them if the inspector observed any problems with the project—and the Boyds commitment to cease work if any problems arose—the Corps raised no objections to the work being done at any time during the project.

However, in a *Kafkaesque* turn of events, after the project was completed, EPA officials chose to inspect the site two days after Hurricane Dennis had inundated the area. Nine months later, without prior notice, EPA issued a notice to the Boyds asserting federal jurisdiction over large areas of the site and alleging multiple violations of the Clean Water Act.

During the administrative hearings that followed, the Boyds learned, for the first time, that the EPA and the Corps had been discussing their ditching project the entire time it was under way. Yet despite the Boyds' express reliance on agency oversight to ensure their full compliance with the law, neither the Corps nor the EPA advised the Boyds they may be in violation of the Clean Water Act.

The Boyds have repeatedly tried to settle the case, at one point even offering to fund the building of an entire oyster reef in the nearby Elizabeth River, an offer that would have substantially benefitted local water quality. But EPA has steadfastly refused to settle the case. The legal wrangling now has spanned several years. It has involved numerous hearings, more than 240 motions and briefs, and cost the Boyds hundreds of thousands of dollars in legal costs and nearly the loss of their farm. Although the Boyds made every effort to comply with the law, an administrative law judge held the Boyds liable for discharging a pollutant into "navigable waters" without a federal permit (*i.e.*, distributing wood chips in wetland areas and allowing silt to collect in the bottom of rain ditches). Pacific Legal Foundation attorneys are representing the Boyds on appeal challenging federal jurisdiction over the site.

The EPA's use of its § 404 authority is breathtaking in its disregard for the rights of landowners. Rather than viewing landowners as allies to be helped, EPA officials appear to view landowners as enemies to be thwarted. The Boyds had no intent to circumvent the law. In fact, they made every effort to comply

with the law. But this was of no consequence to EPA officials who appear to have targeted the Boyds for no reason other than they could. This is the very type of officious conduct that results from "agency officials zealously but unintelligently pursuing their environmental objectives." See *Bennet v. Spear*, 520 U.S. 154, 176-77 (1997).

But perhaps the most nefarious use of EPA power under the Clean Water Act involves the agency's increasing use of unilateral compliance orders to browbeat small landowners into submission without a hearing or proof of violation.

Imagine you own a small lot in a built-out subdivision. You prepare your lot to build the home you always wanted when you get a letter from the federal government directing you to cease and desist. The government claims you filled regulated wetlands without a federal permit under the Clean Water Act and you must restore the property to its original condition or risk civil and criminal penalties.

The government provides you with no evidence of your alleged violation and offers you no opportunity to challenge its jurisdiction. Instead, you are given three options: (1) you can restore your property to its original condition at great expense and pay a civil fine and never build your home; (2) you can restore your property, pay a fine, and spend an average of \$250,000 just to apply for a federal permit to use your property, which you may never receive; or (3), you can ignore the government, in which case federal prosecutors will bring an enforcement action against you (at the time of their choosing) for civil penalties that could amount to thousands of dollars a day and/or criminal fines or even imprisonment.

Now imagine you insist on your right as an American citizen to have "your day in court" to prove the agency has misread the law and has no jurisdiction over your small lot, before subjecting you to severe penalties for the reasonable and ordinary use of your property, and the court says, "No! You must first have your permit application denied or subject yourself to prosecution."

Incredibly, this is not a hypothetical case but a real situation.

Chantell and Michael Sackett own about a half-acre parcel of land near Priest Lake, Idaho, which they bought to build a home. The lot resides in a built-out subdivision near the lake. The lot itself has an existing sewer hookup and is zoned for residential construction. Prior to their purchase, the Sacketts undertook a due diligence investigation. None of their research indicated any Clean Water Act permitting history or requirements for the property. Therefore, the Sacketts had no reason to believe their home lot was subject to federal regulation.

The Sacketts began some earthmoving work with all local building permits in hand. Shortly thereafter, EPA sent the Sacketts a compliance order under the CWA asserting that their property is subject to federal regulation and that they had illegally placed fill material into jurisdictional wetlands on their land. The compliance order prohibited the Sacketts from constructing their home, as previously authorized by local authorities. And, it required the Sacketts immediately to begin substantial and costly restoration work, including removal of all fill material, replanting, and a three-year monitoring program during which the property must be left untouched. Further, the compliance order warned the Sacketts of significant civil penalties (and possible criminal sanctions) for failure to abide by its dictates, without providing the Sacketts any proof of violation or any opportunity to contest EPA's claims.

Ignoring the compliance order is not an option because the CWA imposes significant civil penalties for violating compliance orders or the Act. *See* 33 U.S.C. § 1319(d) (imposing maximum civil penalty of \$25,000 per day per violation). Just one month of noncompliance puts the landowner at risk of civil liability of **\$750,000**. After a year of noncompliance the potential liability is at **\$9,000,000**. Moreover, a landowner who continues with his construction project in the face of a compliance order greatly increases the risk that the agency will seek criminal penalties against him. *See id.* § 1319(c)(1)-(2) (imposing criminal penalties for negligent and knowing violations of the Act).

Applying for a permit after the fact is also not a realistic option. In many instances the EPA will not entertain a permit application until the compliance order has been satisfied. *See, e.g.*, 33 C.F.R. § 326.3(e)(ii) (“No permit application will be accepted in connection with a violation where the district engineer determines that legal action is appropriate . . . until such legal action has been completed.”). For the Sacketts, that would mean: (a) removing all the fill; and, (b), restoring the preexisting “wetlands,” which would necessitate leaving the property untouched for a prolonged period of time. Few landowners could afford the time or cost. Also, as noted above, the time and cost involved in just applying for a permit is significant (*i.e.*, 788 days and \$271,596 for an individual permit and 313 days and \$28,915 for a nationwide permit—not counting costs of mitigation or design changes). There is no guarantee that the permit will be granted, with or without substantial conditions, and the cost of permitting often exceeds the value of the property. If a landowner succeeds in a subsequent lawsuit challenging the agency’s permitting jurisdiction, none of the permitting costs would be refundable. *Cf. Thunder Basin Coal Co. v. Reich*, 510 U.S. 200, 220-21 (1994) (Scalia, J., concurring in part and concurring in the judgment) (“[C]omplying with a regulation later held invalid almost *always* produces the irreparable harm of nonrecoverable compliance costs.”).

Regrettably, the Sacketts are not alone in living this nightmare. EPA regularly relies on this means to force landowners to comply with agency demands: between 1980 and 2001, the agency issued from 1,500 to 3,000 compliance orders every year across the country. *See* Wynn, Christopher M., Note, *Facing a Hobson’s Choice? The Constitutionality of the EPA’s Administrative Compliance Order Enforcement Scheme Under the Clean Air Act*, 62 Wash. & Lee L. Rev. 1879, 1895 (2005). During the previous administration, EPA’s issuance of compliance orders was below historical trends. *See* U.S. EPA, Office of Enforcement and Compliance Assurance, *OECA FY 2008 Accomplishments Report* App. B (Dec. 2008). But the EPA has recently announced its commitment to increase its enforcement efforts.<sup>1</sup> There is every expectation, therefore, that EPA’s reliance on the compliance order will continue and increase. That reliance is troubling when one considers that, as of the late 1990s, EPA referred only about 400 cases annually for judicial enforcement to the Department of Justice. Wynn, *supra*, at 1895. These statistics show an EPA preference to circumvent judicial review, where a landowner can challenge EPA allegations and jurisdiction, in favor of unreviewable compliance orders to compel landowners to comply with the agency’s dictates.

The issuance of a unilateral compliance order puts small landowners, like the Sacketts, in an untenable situation. They can either comply at great cost, sometimes amounting to more than the value

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<sup>1</sup> *See generally* U.S. EPA, Office of Enforcement and Compliance Assurance, *Clean Water Act Action Plan* (Oct. 15, 2009, rev. Feb. 22, 2010), available at <http://www.epa.gov/oecaerth/resources/policies/civil/cwa/actionplan101409.pdf> (last visited Feb. 17, 2011).

of the property, even though they believe the EPA has overstepped its authority, or they can ignore the order and risk monumental fines and/or imprisonment. PLF attorneys are representing the Sacketts in petitioning the U.S. Supreme Court to challenge this practice as a violation of due process.

When government agencies, like the EPA, exercise their regulatory power without regard to the very real impacts on the citizenry and in excess of statutory or constitutional authority, they undermine the constitutional foundation and become a law unto themselves. Citizens are left to conclude that the "rule of law" has no meaning and that rules and regulations are based on personal whim.

The great misconception in government thinking today is the bureaucratic notion that individual rights (including property rights) are a gift from government. And what the government gives it may take with impunity. This idea stands in stark contrast to the understanding the Framers had that individual rights are a constraint on governmental conduct. Therefore, EPA officials should be as dedicated to protecting individual rights as they are to protecting the environment.

Thank you,



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M. REED HOPPER  
Principal Attorney  
Pacific Legal Foundation

**M. Reed Hopper**  
Principal Attorney  
Pacific Legal Foundation

**EXPERIENCE**

**Principal Attorney**

Pacific Legal Foundation, Sacramento, CA - 1996 to Present

Responsibilities include overseeing PLF's litigation projects targeting regulatory abuse under the Endangered Species Act, Clean Water Act, and other federal and state laws. Representing PLF, Mr. Hopper has been part of national and state committees to draft and revise numerous environmental laws and regulations, including the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the California Environmental Quality Act (CEQA), and the California Endangered Species Act (CESA), as well as state and federal timber-harvesting guidelines. Mr. Hopper has written numerous articles relating to environmental law and property rights and litigated precedent-setting constitutional, environmental, and land use cases, including the landmark case of *Rapanos v. United States*, 547 U.S. 715 (2006). In recognition of his experience, Mr. Hopper has spoken at many conferences and has testified in Congress as an expert witness on the Clean Water Act and the Endangered Species Act.

Published: *A Rationale For Partial Regulatory Takings: A Closer Look At Selected United States Supreme Court Precedent*, 31 Southwestern Univ. L. Rev. 1 (2001).

**Environmental Analyst**

Lawrence Livermore National Laboratory, Livermore, CA - 1995

Responsibilities included preparing environmental assessments and analysis required by NEPA, CEQA and the National Historic Preservation Act to ensure project compliance with federal and state environmental laws and regulations.

**Principal Consultant**

Qualitas Environmental Compliance Group, Sacramento, CA - 1994

Responsibilities included preparation of permit applications for projects affecting wetlands, endangered species, and hazardous waste treatment, storage or disposal; development of environmental compliance policies and procedures; training personnel in environmental standards; compliance auditing of industrial facilities; and reviewing and drafting documents required under federal and state resource laws.

**Attorney**

Hackard & Taylor, Sacramento, CA - 1990-1993

Responsibilities included representing public and private entities in the areas of constitutional, environmental, and land use law; CEQA and NEPA compliance and litigation; environmental and land use permitting; and, toxic waste, endangered species, and wetlands compliance. Mr. Hopper also participated in legislative committees to redraft CEQA guidelines and on a national coalition to amend the ESA.

**John Stauffer Fellow/Staff Attorney**

Pacific Legal Foundation, Sacramento, CA - 1987-1990

Responsibilities involved precedent-setting trial and appellate litigation in state and federal courts relative to constitutional, environmental, and property law, including landmark CEQA, NEPA and Superfund cases; review of state and federal environmental regulations; and public speaking. Mr. Hopper was instrumental in the development of Governor Dukemejian's Executive Order on property takings.

**Principal Consultant**

Hazardous Waste Compliance Services, Davis, CA - 1984-1987

Responsibilities included hazardous waste and air pollution facility permitting, compliance auditing, training; compliance documentation, and development of industrial operating standards.

**Environmental Analyst/Engineer**

Aerojet Strategic Propulsion Company, Sacramento, CA 1982-1984

Responsibilities included waste management oversight for large aerospace complex with more than 1,700 people, 200 facilities, and an annual hazardous waste disposal budget in excess of \$1 million; development of over 30 environmental operating and administrative procedures; compliance auditing and training; permit acquisition; and supervision of spill response and resource conservation programs. Award for "Outstanding Accomplishment."

**Analytical Laboratory Technician**

Aerojet Strategic Propulsion Company, Sacramento, CA 1980-1982

Responsibilities included analysis of industrial wastes for Priority Pollutants using EPA Standard Methods.

**Hearing Officer/ Environmental Protection Officer**

United States Coast Guard, New Orleans, LA - 1977-1979

Responsibilities included adjudication of water pollution cases under the Federal Water Pollution Control Act (now the Clean Water Act); training of pollution investigative teams; overseeing oil and chemical spill response in the Gulf Coast; review and preparation of environmental impact statements; and assessment of federal environmental regulations. Medal for "Superior Performance of Duty."

**EDUCATION**

**Juris Doctor**

McGeorge School of Law, University of the Pacific - 1987

Emphasis: Environmental law  
Activities: Moot Court (award for outstanding performance)  
Small Claims Court Advisor  
Honors: Dean's list

Admitted to California Bar - 1987

**Graduate Studies in Business**

Tulane University - 1978-79

Emphasis: Accounting/Marketing  
Honors: Dean's list

**Bachelor of Arts**

University of California, Davis - 1976

Emphasis: German and Biochemistry  
Honors: Dean's list  
German Honor Society  
California State Scholar

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
*Truth in Testimony Disclosure*

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:

*M. Reed Hopper*

(2) Other than yourself, name of entity you are representing:

*Pacific Legal Foundation*

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES

If yes, please provide the information requested below and attach your curriculum vitae.

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing: *None*

*M. Reed Hopper*  
\_\_\_\_\_  
Signature

*5-5-11*  
\_\_\_\_\_  
Date