



Steve Barnett

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Steve Barnett is an experienced litigator who practiced as a Professional Engineer and Certified Industrial Hygienist prior to attending law school. An attorney since 1995, he has represented multinational companies, large New Jersey corporations, smaller businesses, and individuals in all areas of environment, health and safety. His clients have included plaintiffs and defendants in litigation, regulated entities in compliance activities and enforcement proceedings, and parties to real estate and other commercial transactions.

In addition to his Connell Foley experience, Mr. Barnett was also Counsel - Health, Safety & Environment, for the British specialty chemicals company Elementis PLC, where he had global responsibilities for environmental, health and safety in litigation, mergers and acquisitions, contracts, real property and regulatory compliance. He managed and supported business transactions for Elementis ranging in value from \$1 million to \$60 million. Mr. Barnett also served five years for the United States Air Force as a Bioenvironmental Engineer and was honorably discharged with the rank of Captain.

Published Decisions

- *Carvalho v. Toll Bros. & Devel.*, 143 N.J. 565 (1996) (*Amicus Curiae*)
- *Elementis Chemicals, Inc. v. TH Agriculture and Nutrition, L.L.C. et al.*, 373 F.Supp.2d 257 (S.D.N.Y. 2005)
- *State v. Elementis Chemical, Inc.*, 152 N.H. 794 (2005)

Representative Experience

CERCLA/Site Remediation:

- On behalf of current property owner, review and comment on responsible parties' technical reports for environmental investigation and remediation of former petroleum refinery, Jersey City, New Jersey, and advise regarding current and future institutional and engineering controls;
- On behalf of alleged PRP for former PJP Landfill CERCLA Superfund site, Jersey City, New Jersey adjacent to Hackensack River, review, comment on, and object to, interim and final remedial measures proposed by USEPA and NJDEP;
- Review technical reports for Bayonne Barrel & Drum CERCLA Superfund site, Newark, New Jersey, on behalf of adjacent property owner in connection with offsite investigation and remediation;

Practice Areas:

Environmental Law

Admitted to Practice:

State of New Jersey
 State of New York
 United States District Court for the District of New Jersey
 United States District Court for the Southern District of New York

Education:

Rensselaer Polytechnic Institute
 (B.S., Aeronautical Engineering, 1986)
 University of Utah (M.S., Public Health, 1991)
 University of Colorado, Boulder
 (J.D., 1994)

Certifications

Registered as a Professional Engineer in New Jersey
 Certified Industrial Hygienist (CIH), American Board of Industrial Hygiene

Affiliations:

Executive Committee of the National Brownfield Association
 New Jersey Chapter
 New Jersey State Industrial Safety Council
 New Jersey State Bar Association
 Environmental Law Section
 New Jersey State Bar Association
 Business Law Section
 Environmental Law Committee

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- Review and comment on technical reports, including RI/FS's, for CERCLA Superfund site in South Plainfield, New Jersey;
- Represent Third Party Defendant in NJDEP cost recovery action arising out of the Burlington Environmental Management Services (BEMS) Sanitary Landfill, Southampton Township, New Jersey, NJDEP v. Almo Anti-Pollution Services Corporation et al., Docket No. L-00895-02, Superior Court of New Jersey, Law Division, Burlington County;
- Reviewed and commented on technical reports including Feasibility Study relating to former New Orleans manufacturing facility for dioxin-containing pesticides, and solicited USEPA and Louisiana Department of Environmental Quality in support of property owner's interests;
- On behalf of subsequent property owner, reviewed and commented on technical reports submitted to USEPA including Remedial Alternatives Study relating to former Davenport, Iowa chemical distribution facility pursuant to RCRA Section 3013 Administrative Order on Consent;
- Represented plaintiff in case which was the subject of the first reported CERCLA decision in Second Circuit after the United States Supreme Court decision in Aviall, ultimately recovering \$6,500,000 and past costs and obtaining future environmental protections for client with respect to 14 sites nationwide, Elementis Chemicals, Inc. v. TH Agriculture and Nutrition, L.L.C. et al., 373 F.Supp.2d 257 (S.D.N.Y. 2005), and companion case TH Agriculture & Nutrition, L.L.C. et al. v. Elementis Chemicals, Inc. et al., Case No. 05-CV-00818, Court No. 7, District Court of Johnson County, Kansas;
- Represented plaintiff in CERCLA case recovering \$1,300,000 past environmental costs and future indemnification from adjacent petrochemical refinery, Elementis Chromium, L.P. v. El Paso Merchant Energy-Petroleum Company, Civil Action No. H-01-0233, United States District Court for the Southern District of Texas, Houston Division;
- On behalf of subsequent owner, negotiated interim agreements for prior property owner to perform environmental investigation and remediation of contaminated sites in Dallas, Denver, Houston, Indianapolis, Kansas City, New Orleans and Oklahoma City resulting in total savings to client of \$2,000,000 over three years;
- Defended suit by State of New Hampshire seeking \$1,500,000 for hazardous waste violations at a contaminated site, State v. Elementis Chemical, Inc., 152 N.H. 794 (2005);
- Represented PRP in allocation negotiations with USEPA and other PRP's with respect to Lenz Oil CERCLA Superfund site, Cook County, Illinois;
- As Certified Industrial Hygienist, implemented health and safety plan for Hill Air Force Base CERCLA Superfund site, Ogden, Utah.

Litigation:

- Represented clients in CERCLA (Superfund) and state environmental remediation matters nationwide;
- Managed & defended 1000+ asbestos and other product liability & toxic tort cases in NJ and nationwide;
- Represented plaintiff in federal case recovering \$6,500,000 and favorable future environmental terms at 14 sites nationwide;
- Represented plaintiff in federal court in TX against adjacent petrochemical refinery recovering \$1,300,000 past environmental costs and future indemnification;
- Defended suit by State of NH seeking \$1,500,000 for hazardous waste violations – the Court dismissed all claims after a trial on the merits;

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- Negotiated for prior property owner to perform environmental remediation at 7 facilities in 7 states resulting in savings to client of \$2,000,000 over three years;
- Defended construction contractor in case resulting from NJ power plant explosion and fire involving three fatalities and seeking \$50,000,000 in damages.

Mergers and Acquisitions:

- Directed environmental due diligence investigation of the sole active chromium ore refining facility in US and drafted & negotiated environmental terms of purchase for \$40,000,000;
- Drafted and negotiated terms & directed environmental disclosures in sale of NJ adhesives business for \$16,000,000;
- Negotiated and drafted terms of sale of aluminum chloride manufacturer in PA for \$3,000,000, directed environmental disclosures, and arranged for recycling of 300,000 lbs of off-spec aluminum chloride realizing \$300,000 savings;
- Negotiated and drafted terms of sale agreement for driers and antiskinning product inventory and associated non-compete agreement and trademark license for US and Canada;
- Drafted and negotiated documents for construction of \$2,000,000 chromium chemical processing unit in NC and related service and supply contracts and confidentiality and trade secret agreements;
- Directed environmental due diligence investigations for: purchase of chemical manufacturing plant in Netherlands for €48,500,000; mothballing of site in Newcastle, England; three acquisitions in which client advanced to second round of bidding; termination of joint venture site in Nashville, TN; and sale of industrial latex rubber manufacturing business with facilities in Malaysia, Australia, US, UK, Netherlands and South Africa.

Real Property

- Represented owner of NJ property used for WWII munitions testing during munitions investigation and remediation and in subsequent suit for business interruption;
- Represented developer of NJ golf course and condominium project on site of former petroleum product refinery in obtaining environmental and condominium law approvals;
- Represented owner of multiple properties in environmental investigation and remediation and transfer for development and construction of new Prudential Center in downtown Newark, NJ, home of New Jersey Devils hockey team;
- Represented developer in environmental due diligence, acquisition and consolidation of 20+ contiguous urban parcels and subsequent sale for in excess of \$100 million;
- Directed remediation and marketing, drafted & negotiated terms of sale, for \$1,000,000 of Brownfield property in NJ;
- Negotiated and drafted terms of pipeline leases and easements for transportation of oil and petrochemicals to/from Port of Corpus Christi, TX in exchange for rent & indemnities for client;
- Directed environmental investigation & drafted and negotiated sale terms for Vancouver, BC site for CA\$2,300,000 and Toronto, ON Brownfield site for CA\$2,100,000;
- Advised on remediation & negotiated and drafted terms of sale of industrial Brownfield properties in NJ, GA, NC and Toronto;

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- Advised on environmental issues in connection with mothballing of chromium chemical manufacturing plant in Corpus Christi, TX and color pigments manufacturing plant in East St. Louis, IL.

Regulatory Compliance

- Advised on federal and state, and foreign, environmental, health and safety regulations pertaining to manufacture, sale and distribution of specialty chemical products worldwide;
- Defended and successfully resolved air permit violations in NJ, IL, TN, & TX, wastewater violations in IL, MO, NJ, & WV, and EPA PCB information requests, groundwater & soil compliance issues, and DOT requirements in TX;
- Routinely advise clients on compliance with New Jersey Department of Environmental Protection requirements, including hazardous substances, site remediation, land use, and air permitting, including defense of enforcement actions (AONOCAPA's);
- Routinely advise clients on compliance with OSHA requirements for worker health and safety, including response to inspections and notices of violations;
- Conducted 20+ health, safety and environmental audits of facilities in US and Europe to OSHA & EPA requirements, comparable EU standards, and corporate best practices;
- Solicited highest levels of USEPA to grant pesticide registrations for chromium-containing products and participated in OSHA rulemaking in regards to hexavalent chromium including litigation against OSHA and SBA hearings;
- Defended USEPA enforcement action under Toxic Substances Control Act (TSCA) seeking \$433,000 for alleged violations of Inventory Update Rule (IUR) and Premanufacture Notice (PMN) requirements and improper import certifications;
- Defended Federal Aviation Administration (FAA) enforcement action pursuant to USDOT Hazardous Materials Regulations;
- Defended bulk chemical supplier in NJDEP hazardous waste enforcement action pursuant to RCRA relating to a garbage truck fire and resulting emergency response action.

Publications

- Author, "Your Property Might Not Be As Clean as You May Think" *New Jersey Law Journal* (January 2010)
- Author, "Critical Issues The ABCs of LSRP Law" published in *Real Estate New Jersey* magazine (August 2009)
- Author, "The Grandparent Effect: DEP adopts new site clean-up standards" published in the *New Jersey Law Journal* (November 2008)
- Author, "OSHA Inspections for Consideration in 2007" in *Construction Executive* magazine (2007)
- Co-author, "NJDEP Jurisdiction Expanding: Proposed revisions to stream encroachment permit rules" published in the *New Jersey Law Journal* (2007)
- Author, "Compliance Checkup" in the *New Jersey Law Journal* (2007)
- Co-author, "Rapanos: The feds and intrastate waters" in *Re: The Magazine from New Jersey Lawyer* (2007)
- Discussion on, "New Jersey's Chemical Security: Best Practices and Open Questions" in *The Metropolitan Corporate Counsel* (2006)

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- Author, "Controlling Global Warming, States Keep Their Cool and Take Action" published in *Environmental Protection* magazine (June 2006)
- Author, "Responding To OSHA Inspections" (2001)
- Author, "Local Citizen Inspection Law: Taking "Right-To-Know" Too Far?" for the Washington Legal Foundation (1998)
- Presents paper, "Environmental Requirements and Consequences Related to the Closing of United States Military Bases in Europe" at The Fourth International Symposium and Exhibition on Environmental Contamination in Central and Eastern Europe, held in Warsaw, Poland (1998)
- Author, "New Jersey Supreme Court Expands Liability for Engineering Professionals" (1996)

Professional Activities

- Risk Management and Loss Prevention Committee, Licensed Site Remediation Professional Association (LSRPA)
- Co-Chair, OSHA/New Jersey Industry Communication Alliance
- Former Public Defender for the Borough of Glen Ridge
- Past President, New Jersey Section of the American Industrial Hygiene Association
- Former Chairman, Professional Conduct Committee of the New Jersey Society of Professional Engineers

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