

In Memory of Andrea Mead Lawrence

Mammoth Mountain, California

19 April 2009

As a practitioner and teacher of natural resources law I am honored by your invitation to describe Andy Lawrence's great contributions to the law of California. Let me explain why in my judgment Andy in her lifetime became the most significant citizen activist in California, and with the late Inyo County District Attorney Buck Gibbons gave us the two most important lives in the modern history of the Eastern Sierra.

In so doing I cannot avoid relating Andy's life as civic leader to her life as athlete, and so will also reflect on how she has influenced my life as athlete as well as lawyer and law teacher.

Andy first came into my life, without my quite realizing it, in January 1972, less than a year out of law school, as a law clerk to Justice Mathew Tobriner of the California Supreme Court. Right before the holiday break a petition had come to the Court under the name *Friends of Mammoth v. Board of Supervisors*. The Justice to whom the case was initially assigned recommended denial of the petition, but Justice Tobriner's law clerks asked if we could write a counter-memorandum urging the Court to take the case. Being the middle of winter, we had planned that if successful we would have to come at State expense to Mammoth Mountain to see what it was all about – but while the Court took the case, of course, our trip did not materialize. Indeed, it was only today that for the first time I skied downhill here – so Andy, I want you to know that it took 37 years, but I finally made it!

And so, because of Andy's foresight and leadership in establishing the Friends of Mammoth and bringing its case, *Friends of Mammoth* became the founding case of California environmental law – not just because it held that the California Environmental Act (CEQA) applied to private as well as public development, but more fundamentally because the Court declared that the law be interpreted to provide the fullest possible protection to the environment. Every subsequent land and water decision in our State has been governed by that principle and Andy's case. And for the lawyers here, you know that the parallel federal statute, the National Environmental Policy Act (NEPA) never enjoyed that endorsement by the U.S. Supreme Court, and never fulfilled its promise as *Mammoth* fulfilled CEQA's.

Indeed, the first manifestation of *Mammoth's* promise came less than two weeks after that case became final in November 1972, when Inyo County's then-DA, Frank Fowles, filed in Independence the case that became known as *County of Inyo v. City of Los Angeles*. Now *Mammoth's* ruling had little application to LA's groundwater pumping project, an unambiguously public project carried out by a

public agency. But what Andy did through the *Mammoth* decision was to make Frank Fowles – and virtually the rest of California – aware for the first time that there is a CEQA law and when applicable it requires an EIR. So with little intellectual rigor but a litigator’s instinct Frank simply filed his case – which of course wound up pending in the Court of Appeal for the next 27 years, ultimately leading LA to end its monopoly on Owens Valley water decisions and rewater the Owens River. Along the way, then, in 1976 Andy came into my life a second time, when Buck Gibbons called me to this watershed to take the County’s case.

Within the next few years I met and got to know Andy – best as I can remember, introduced by Genny Smith in the early years of the Mono Lake campaign. That leads to Andy’s second great landmark in the law, the permanent protection of Mono Lake. Andy’s election to the Mono County Board of Supervisors came at just the right moment; she took office in January 1983, and one month later the California Supreme Court issued its other great environmental decision of our time, *National Audubon Society v. Superior Court*. Up until that time, it is fair to say that Mono County stood on the sidelines of the Mono Lake campaign. When Andy joined the board, that all fortunately changed; for winning the Mono Lake case actually proved much easier than the subsequent 11-year effort to implement the Court’s decision. Andy brought her forceful advocacy, and the institutional support of the most important and relevant local government, to ensure creation of the Mono Basin National Forest Scenic Area and ultimate State Water Board and Superior Court decisions to fix the lake level.

Incidentally, this is a family affair. Not only I as a legal advisor to the Mono Lake Committee, but my wife Kathy Burns as the National Trust’s western regional director, were enriched by Andy’s leadership as Mono County’s advocate; in Kathy’s case, defeat of a mining proposal, leading to permanent protection of Bodie State Historic Park.

The third and least known of Andy’s contributions to the law came in the second *Friends of Mammoth* case, this one in 2000 in the Court of Appeal against the Town of Mammoth Lakes. Courageously taking on her town council that proposed to incorporate the entire community into a redevelopment plan based on its finding that Mammoth Lakes was “blighted,” Andy and her Friends of Mammoth secured the appellate court’s vindication with its ruling that “the facts of this case exemplify the misuse of redevelopment power the Legislature sought to curb.” But to get there, Andy and her lawyer had to overcome 50 lawyers representing more than 75 cities joining the other side, who did not want that power curbed. Transcending the importance of that decision here at Mammoth Lakes, *Mammoth II* rose to statewide and even national significance after the U.S. Supreme Court’s 2004 decision in *Kelo v. New London*. With the Court’s holding that eminent domain could be exercised to transfer private property from one owner to another, out-of-state extremists sought through proposed legislation and two proposed constitutional amendments to deprive California from even using eminent domain for worthy public projects, and to force payment of compensation every time a public decision momentarily caused

a loss of property value. Those of us who worked to defeat those measures pointed quickly to the second *Friends of Mammoth* – to prove that at least in California, the Legislature had acted to prevent the *Kelo* nightmare, and more importantly the California courts would enforce that protection.

What traits of Andy caused her to be so successful in giving us these contributions to our law? I offer three answers. First, her first-rate mind and ability to express herself so well – particularly in the authoritative accent of a New England native. Second, her keen interest in civic affairs, and more particularly those affecting land use and natural resources. And third, the traits of an athletic champion, endowed with vigor, strengthened by discipline, and gifted with the exhilaration of victory – in sum, knowing how to make the effort, and tasting the fruits of it well enough to keep going.

Andy was good, and she knew it. At one conference on *Friends of Mammoth*, she referred to herself as “the mater familias of the CEQA profession”; this was neither false modesty nor boast, but true to Andy’s style, unadorned fact and truth. In her athleticism Andy did not seek corporate sponsorship or personal gain, but relished in the joy of excellence for its own sake, celebrated the camaraderie of her competitors, and found strength and inspiration to serve others – values and example that have guided me, as counsellor and past president of the world’s premiere ultramarathon event, striving mightily to preserve the amateur ideal and recognize each participant as a winner.

At the 1997 State Bar Environment Conference honoring the 25th anniversary of *Friends of Mammoth*, I summed up Andy as follows: “Andy Lawrence, the quintessential citizen, beginning her career as petitioner Friend of Mammoth, then for the last 16 years member and chair of respondent Board of Supervisors, leading her county into partnerships that saved Mono Lake and Bodie State Historic Park; fellow child of New England, fellow athlete who doesn't know when to quit (though I won't pursue that comparison any further [for reasons known to all of us here]), we have shared quiet walks at the lake and countless reunions in Mammoth town, at first either conspiring or commiserating [and let me assure you there was much of that] , but more recently focused on the raising of children.”

And so Andy’s life challenges us, in our personal achievement and in our service to others, to live so that, as she did in the immortal 63 seconds of her second run at Oslo, “we become the thing we are doing.”

Tony Rossmann