



Benjamin A. Mayer

Partner

Seattle

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OVERVIEW

Ben Mayer represents public, private, and government entities on environmental, energy, and utility law and regulatory matters. He also advises on projects and partnerships with Native American tribes. Ben helps clients navigate federal and state environmental cleanup and land use laws and regulations, including Superfund laws and environmental policy acts. He also advises clients on federal and state energy laws and regulations, including utility regulatory and public policy issues.

Ben advises and represents clients on these issues in:

- Environmental cleanup matters and complex Superfund site allocations
- Government investigations and requests for information
- The siting, permitting, and development of energy and infrastructure projects
- Power sales and purchases
- The acquisition and sale of real property and facilities
- Mergers and asset acquisitions
- Condemnation and relocation actions
- Administrative proceedings before public utilities commissions, including the Washington Utilities and Transportation Commission, and other federal and states agencies
- Litigation and appeals

Ben's American Indian law practice involves counseling clients in negotiations and transactions with tribes on issues related to sovereign immunity, tribal jurisdiction, treaty rights, tribal leasing, historic and cultural resources, and gaming. He has advised clients on these matters in relation to:

- The development of wind and solar projects
- Leases for wind and solar, mining and mineral, and oil and gas projects

- Gaming facilities and services
- Forestry operations
- Shipping terminals and related water uses
- Financial services agreements
- Joint venture agreements
- Contracts for goods and services
- License agreements
- Interlocal taxing agreements
- Non-disclosure agreements
- Property acquisition financing and sales
- Environmental reviews and consultations
- Shellfish implementation plans

PROFESSIONAL BACKGROUND

Prior to joining the firm, Ben served in the United States Army, including a deployment to Iraq. He also established the Veterans Student Union at the University of California, Irvine, and was a co-founding member of the Student Veterans of America.

ACHIEVEMENTS

- Listed in the *Best Lawyers: Ones to Watch*® in America in Seattle
 - Environmental Law, 2024
 - Native American Law, 2023-2024
- Selected to Washington Rising Stars list, 2018-2023

PROFESSIONAL / CIVIC ACTIVITIES

- Leadership Tomorrow, Class of 2022
- Board Member, CleanTech Alliance, 2021-Present
- Board Member, Mountains to Sound Greenway Trust, 2020-Present
- Board Member, Seattle Sports Commission, 2017–2020

- Content Editor, King County Bar Association Washington Lawyer Practice Manual, Indian Law Chapter, 2014-Present

SPEAKING ENGAGEMENTS

- Presenter, "Transmission Siting Reform and Potential Impacts on Transmission Development in the Northwest," Northwest & Intermountain Power Producers Coalition Annual Meeting, 18 September 2023
- Interview, Biggest Energy-Related Rulings Of 2023: Midyear Report, by Peter McGuire, Law360, 18 July 2023
- Speaker, "Recent Federal Native American Law Developments in the Ninth Circuit," Washington Municipal & PUD Attorneys CLE, 17 May 2023
- Interview, "The Duwamish seek federal recognition," Seattle Now, KUOW I npr, 18 May 2022
- Presenter, "Renewable Energy on Tribal Lands," Northwest Environmental Business Council and CleanTech Alliance Energy Leadership Summit, 9 November 2021
- Speaker, "Renewable Energy Projects on Tribal Lands: Regulatory Authority, Development, Financing Structures," Strafford, June 2021
- Interview, "Native communities turning towards renewable development with revenue and values front of mind," by Colt Shaw, New Project Media, 30 October 2020
- Speaker, "Tax Developments Provide Opportunities for Economic Growth in Indian Country," Federal Bar Association and myLawCLE, June 2019
- Panel Moderator, "Expanding Opportunities: Innovative Approaches to Procuring Renewable Energy," Northwest Environmental Business Council Washington's Energy Future Conference, November 2017

EDUCATION

- J.D., University of Virginia School of Law, 2012
- B.A., University of California, Irvine, 2008

ADMISSIONS

- Bar of Washington
- United States District Court for the Western District of Washington

THOUGHT LEADERSHIP *POWERED BY HUB*

- 26 February 2024, It's a Gas! Federal and State Developments Continue to Light Up the Natural Gas Debate
- 21 April 2023, Ninth Circuit Cans Berkeley Gas Ban Under Federal Law

- 25 April 2022, Offshore Wind Handbook
- 16 June 2021, Inherent Tribal Authority Includes the Power to Protect Tribal Communities by Detaining and Investigating Non-Indians for Violations of Federal and State Law
- 4 February 2021, Washington State Legislature Considers First of Its Kind State-Level Natural Gas Ban
- 20 January 2021, Building Relationships with Tribes and Operating on Reservation Lands: Lessons From FMC v. Shoshone
- 1 October 2020, Renewables on Tribal Land: Addressing Environmental and Economic Equity on the Path to a Clean Energy Economy
- 17 July 2020, Indian Land Then, Remains Indian Land Now: The Supreme Court Confirms That a Significant Portion of Eastern Oklahoma Is a Native American Reservation
- 12 December 2019, Know Your Tribal Counterparty: Tribal Corporations May Be Immune From Suit
- 20 May 2019, Washington Attorney General Announces New Policy to Seek Tribes' Consent
- 22 March 2019, SCOTUS Rules that Yakama Treaty Preempts Washington Tax
- 9 January 2019, Tax Developments Provide Opportunities for Economic Growth in Indian Country
- 4 January 2019, Tax Developments Provide Opportunities for Economic Growth in Indian Country
- 15 June 2018, "Culvert Case" Affirmed
- 11 May 2017, Exploring Tribal Sovereign Immunity with *Lewis v. Clarke*
- 10 February 2017, Sea Change: Washington Supreme Court Decision Affects Coastal Energy Projects
- 16 August 2016, Ninth Circuit Addresses Effect of Removal on Tribal Sovereign Immunity
- 11 August 2016, Implications of the Ninth Circuit's Recent "Culvert Case" for Government and Private Entities Responsible for Conditions that Limit Salmon Runs in the Pacific Northwest
- 23 May 2016, Eagle Take Permit Program Revamped – Longer Permits and Clearer Mitigation Requirements
- 1 March 2016, Critical Habitat and the Endangered Species Act: Newly Enacted Regulations Threaten to Expand the Government's Role and Discretion in the Permitting Process
- 17 December 2015, Presidential Memorandum Promotes Pre-Project Mitigation and Restoration Banking: Implications for Energy Projects and Related Development

OTHER PUBLICATIONS

- "Minn. Mine Denial Stresses Importance Of Tribal Partnerships," *Law360*, 14 July 2023
- "U.S. Court of Appeals for the Ninth Circuit Cans Berkeley Gas Ban Under Federal Law," *Pratt's Energy Law Report*, July-August 2023

- “Recent Rulings Affirm Tribal Sovereign Immunity And Joinder,” *Law360*, 30 March 2023
- “Renewable Energy on Tribal Lands: Native American Tribes are Well Positioned to Play a Key Role in the Clean Energy Transition,” *The Federal Lawyer*, March/April 2022
- “Permitting for Energy Projects on Washington's Coast,” *NWLawyer*, July/August 2017
- “Culvert Operations: What Cities Need to Know About a Salmon Ruling This Past Spring,” *Cityvision Magazine*, p. 25-26, September/October 2016
- “Considering The Difference: Treaty Rights And NEPA Review,” *Law360*, 29 August 2016
- “Go Fish: The Impact of the Ninth Circuit's 'Culvert Decision' on Salmon Runs in Washington State,” *Best Lawyers*, 22 August 2016
- “Washington Lawyers Practice Manual,” Indian Law Chapter, Content Editor, King County Bar Association, 2014-present

NEWS & EVENTS

- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 8 February 2022, Renewable Energy Development on Tribal Lands
- 20 and 27 April 2021, Fires in the Pacific Northwest: A Two Part Series
- 5 March 2021, K&L Gates Names 31 New Partners Across Global Platform

MEDIA MENTIONS

- Quoted, “VIDEO: Past, present, future celebrated and explained at Duwamish Longhouse's 15th anniversary party,” *West Seattle Blog*, 28 January 2024

AREAS OF FOCUS

- Environment, Land, and Natural Resources
- American Indian Law
- Construction and Infrastructure
- Corporate Sustainability
- Energy Storage and Distributed Resources
- Power
- Renewables

INDUSTRIES

- Agribusiness
- Consumer Products
- Energy
- Power Generation and Transmission
- Utilities

REPRESENTATIVE EXPERIENCE

Environmental

- Represent local governmental entity in allocation of cleanup costs for the Lower Duwamish Waterway Superfund site.
- Advise aerospace manufacturing company in Berry's Creek Study Area allocation as part of the Ventron/Velsicol Superfund site.
- Represented former upstream corporate investor in National Park Service investigation and clean up of waste accumulation site in Yosemite National Park.
- Represented shipyard in allocation of cleanup costs at the Portland Harbor Superfund site.
- Advised global farmland and timberland portfolio development and management company on compliance with state and federal cleanup laws in property acquisitions.
- Represented private individual in recovering cleanup costs associated with spill of underground storage tank from potentially responsible parties and insurance carriers.

Energy/Utility Regulatory

- Advised data center on procurement of power and related services for operations in eastern Washington.
- Represented county government in Puget Sound Energy rate case at the Washington Utilities and Transportation Commission for just and reasonable rates for renewable energy.
- Advise municipal corporation on procurement of renewable energy and renewable energy credits.
- Counseled association of publicly owned electric utilities on issues related to implementation of the Climate Commitment Act in Washington state.
- Advised data center on compliance with Washington Clean Buildings Performance Standards and negotiation of Clean Buildings Compliance Services Agreement with third-party contractor.
- Advised Canadian electric utility on impacts of weather events, including wildfires and winter storms, on the management of rate-regulated electric utilities in the United States.

- Represented municipal government in obtaining regulatory approval to enter into long-term contract with investor-owned utility for non-baseload electric generation plant.
- Advised international pension plan investment board in obtaining approval from Washington Utilities and Transportation Commission to sell majority non-controlling interest in investor-owned utility holding company.
- Advised school district association on building electrification and energy efficiency requirements under Washington state law.
- Represented proposed purchaser in US\$5.3 billion acquisition of investor-owned electric and gas utility, including proceedings to obtain approval from utility commissions in Washington, Oregon, Idaho, Montana, and Alaska.
- Represented a leading American multinational technology corporation in obtaining regulatory approval and negotiating related documents for purchase of carbon-free power from third-party supplier.
- Represent local governmental transit department to obtain sustainable power for the electrification of its bus fleet.
- Represented a Washington county in Administrative Procedure Act appeal of a Washington Utilities and Transportation Commission order regarding cost to replace transmission line.
- Advised airline catering services company regarding resolution of water utility back charges.

American Indian Law

- Represent the Duwamish Tribe in lawsuit against the federal government for acknowledgement as a federally recognized Indian tribe.
- Advise renewable energy developer on leasing arrangement and negotiations with federally recognized Indian tribe for the development of an on-reservation solar farm.
- Advised aviation services provider in negotiation and execution of joint venture agreement with tribal corporation.
- Represented healthcare software company to negotiate and implement license agreement with tribal hospital.
- Advise renewable energy developer on the development of wind projects on tribal trust and individual fee lands in partnership with federally recognized Indian tribes and federally chartered Native American corporation.
- Advised agribusiness financier regarding acquisition financing for property located on Indian reservation.
- Represented school district in negotiations with a federally recognized Indian tribe for implementation of a local taxing agreement.
- Advised resort and casino regarding state legislation designed to allow federally recognized Indian tribes to develop and operate off-reservation casino.
- Represented investment management company to negotiate and implement financial services agreements with a federally recognized Indian tribe.

- Advised governmental entity on tribal rights under the Maine Indian Claims Settlement Act.
- Advised governmental entity on application of state law on Native American reservations in California under Public Law 280.