



Kenneth J. Gish, Jr

Of Counsel

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OVERVIEW

Ken Gish is of counsel at the firm's Charlotte and Seattle offices where he is a member of the power practice group. Ken is a member of K&L Gates' Corporate Energy Sourcing initiative and assists corporate and institutional customers in meeting sustainability goals through renewable energy purchases. Ken also represents clients in the energy industry, including hydropower operators and renewable energy developers in transactions, before state and federal regulatory bodies and in all aspects of complex project development including defending permit appeals at the administrative and judicial level. Additionally, Ken counsels clients with regard to compliance with federal, state and local environmental regulations.

PROFESSIONAL BACKGROUND

Prior to joining the firm Ken was a member of the environmental, natural resources, and energy services group at a national law firm. In addition, he served as an associate at the K&L Gates Seattle office for seven years. Before law school, Ken served as a watch and division officer on USS San Juan (SSN-751), a nuclear-powered, fast attack submarine.

PROFESSIONAL / CIVIC ACTIVITIES

- LexArts, Inc.
 - Director, 2019 to Present
- Leadership Lexington, Class of 2012
 - Distinguished Leader Award, 2012
 - Steering Committee, 2014 to 2020
 - Steering Committee Chair, 2018-2019
- Bluegrass Greensource, Inc.
 - Director, 2012 to 2019

- Chair, 2016 to 2018
- American Bar Association Energy Markets & Finance Committee
 - Vice Chair, Publication, 2016 to 2018
- American Bar Association Water Resources Committee
 - Vice Chair, Technology; 2005
 - Vice Chair, Membership; 2006 to 2008
- Kentucky Bar Association, Environment, Energy and Resources Law Section
 - Chair, 2014-2015
- King County Bar Association Environmental Law Section
 - Secretary; 2007 to 2008
 - Treasurer; 2008 to 2010

SPEAKING ENGAGEMENTS

- "State Policies in Support of Offshore Wind - Do They Matter?," AWEA Windpower Conference, May 20-23, 2019.
- "Citizen Suit Enforcement – Filling the Gap," 20th Annual Kentucky Environmental Permitting and Reporting Conference, Kentucky Chamber of Commerce, Lexington, Ky., August 11, 2017.
- "The Changing Face of Kentucky's Energy Future," Kentucky Journal of Equine, Agricultural & Natural Resources Law Second Annual Symposium: "ENERGY AND THE ENVIRONMENT: The Interplay of Regulations and Natural Resources Law and Policy," University of Kentucky College of Law, Lexington, Ky., March 2, 2016.
- "Managing the Risks of Climate Change," 14th Annual Kentucky Environmental Conference, Kentucky Chamber of Commerce, Lexington, Ky., February 10, 2016.
- "Update on Environmental Liability in Real Estate Transactions: Watch-Outs and Best Practices for the General Practice Lawyer," 2015 Kentucky Law Update, Kentucky Bar Association, Lexington, Ky., December 4, 2015.
- "Recent Clean Air Act Supreme Court Decisions," 2015 Kentucky Environmental Law CLE Seminar, Kentucky Bar Association Environment, Energy and Resources Law Section, Frankfort, Ky., April 22, 2015.
- "Kentucky's New Brownfield Law: A New Approach for Property Acquisition and Redevelopment," Stites Harbison, PLLC, Thirsty Thursday event, May 22, 2014.
- "Brave New World? - Challenges to the Electric Utility Industry (and your utility rates)," 2014 Kentucky Association of Manufacturers Energy Conference, Lexington, Ky., May 15, 2014.

- "New Entrants in Electric Generation in the Tennessee Valley," Tennessee Department of Environment and Conservation, 43rd Annual Environmental Show of the South, Gatlinburg, Tenn., April 30, 2014.
- "Greenhouse Gases at One First Street," 2014 Kentucky Environmental Law CLE Seminar, Kentucky Bar Association Environment, Energy and Resources Law Section, Frankfort, Ky., April 22, 2014.
- "Stormwater Regulation, It's Time to Get Serious," 2013 Kentucky Chamber of Commerce 16th Annual Environmental Permitting & Reporting Conference, August 21, 2013.
- "Understanding Riparian and Water Rights," Kentucky Land Laws Seminar, Lexington, Ky., August 15, 2013.
- "Endangered Species Act in Kentucky," Kentucky Bar Association Environment, Energy and Resources Law 2013 Kentucky Environmental Law CLE Seminar, April 23, 2013.
- "Dangerous Intersections: Understanding and Navigating the Crossroads of Construction and the Environment," 2013 Kentucky Chamber of Commerce Environmental Conference, March 5, 2013.
- "R&D Today & Tomorrow, and Making it Happen," Kentucky Association of Manufacturers, 2012 Energy Conference, Louisville, Ky., June 13, 2012.
- "Emerging Issues in Oil and Gas Production," Mineral Property Law Seminar, Lexington, Ky., May 17, 2012.
- "Environmental Protection Regulatory Update," Second Annual Kentucky Environmental Law CLE seminar, Frankfort, Ky., April 10, 2012.
- "Recent Developments in Clean Air Act Regulations," Recent Developments in Air Quality Regulations Seminar, Louisville, Kentucky, October 6, 2011.
- "Understanding Kentucky's Surface Water Rights," Kentucky Water Laws and Regulations Seminar, Lexington, Kentucky, March 31, 2011.
- "What do you mean I'm liable? How to limit exposure to environmental liability in real estate transactions," 11th Biennial Real Estate Law and Practice Institute, UK College of Law, Lexington, Kentucky, Nov. 11 & 12, 2010.
- "Conserving Energy while Saving the Environment" and "Green Building and Low Impact Development," Northwest Environmental Conference Portland, Oregon; December 8, 2009.
- "Wind Power: Legal Framework for Wind Power Siting – Case study: Klickitat County's Unique Energy Overlay Zone Permitting Process," LSI's Land Use in Eastern Washington Conference, Spokane, Washington, July 10, 2007.
- "Water Issues for Energy Development," Washington Water Law Conference, Seattle, Washington, June 5, 2007.
- "Stricter Water Quality Standards and New TMDLs: Minor Tweaks or Major Changes?" Northwest Environmental Conference, Portland, Oregon, December 7, 2006.
- "Environmental Disobedience," Northwest Environmental Conference, Portland, Oregon, December 9, 2005.

EDUCATION

- J.D., University of Michigan Law School, 2003 *cum laude*
- B.A., Georgetown University, 1995

ADMISSIONS

- Bar of Kentucky
- Bar of North Carolina
- Bar of Washington
- United States District Court for the Western District of Washington
- Washington State Supreme Court

THOUGHT LEADERSHIP POWERED BY HUB

- 23 September 2020, ReNEWS Southeast - Volume 17 (*Alerts/Updates*)
- 25 June 2020, ReNEWS Southeast - Volume 16 (*Alerts/Updates*)
- 21 April 2020, ReNEWS Southeast - Volume 15 (*Alerts/Updates*)
- 11 March 2020, ReNEWS Southeast - Volume 14 (*Alerts/Updates*)
- 17 February 2020, Certain Uncertainty at FERC: Areas to Watch in 2020 for Natural Gas Pipelines and LNG and Hydropower Facilities (*Alerts/Updates*)
- 7 February 2020, ReNEWS Southeast - Volume 13 (*Alerts/Updates*)
- 7 January 2020, ReNEWS Southeast Volume 12 (*Alerts/Updates*)
- 1 November 2019, ReNEWS Southeast Volume 11 (*Alerts/Updates*)
- 28 October 2019, 2019 Offshore Wind Handbook (*Alerts/Updates*)
- 17 October 2019, ReNEWS Southeast Volume 10 (*Alerts/Updates*)
- 25 September 2019, ReNEWS Southeast Volume 9
- 6 September 2019, ReNEWS Southeast Volume 8 (*Alerts/Updates*)
- 23 August 2019, ReNEWS Southeast Volume 7 (*Alerts/Updates*)
- 8 August 2019, ReNEWS Southeast Volume 6
- 29 July 2019, ReNEWS Southeast Volume 5 (*Alerts/Updates*)
- 11 July 2019, ReNEWS Southeast Volume 4 (*Alerts/Updates*)

- 27 June 2019, ReNEWS Southeast Volume 3 (*Alerts/Updates*)
- 14 June 2019, ReNEWS Southeast Volume 2 (*Alerts/Updates*)
- 29 May 2019, ReNEWS Southeast Volume 1 (*Alerts/Updates*)
- 22 May 2019, K&L Gates Carolinas Environmental Update (*Alerts/Updates*)

OTHER PUBLICATIONS

- "Don't Step in It: D.C. Circuit Vacates Manure-Related Notification Exemptions Under CERCLA and EPCRA," Stites & Harbison, PLLC Legal Update, April 13, 2017.
- "Environmental Compliance for the Distilling Industry," Kentucky Bar Association, Bench and Bar Magazine, November 2013.
- "Here we go again: DC Circuit vacates Cross-State Air Pollution Rule," Stites & Harbison, PLLC, Client Alert, August 22, 2012.
- "Supreme Court Clarifies Test to Determine Navigability for Title to Riverbeds," Water Quality and Wetlands Committee Newsletter, American Bar Association, Vol. 10, No. 2, August 1, 2012.
- "EPA issues proposed rule limiting carbon dioxide emissions from new power plants," Stites & Harbison, PLLC, Client Alert, March 27, 2012.
- "Supreme Court rejects federal common law nuisance claims for greenhouse gas emissions," Stites & Harbison, PLLC, Client Alert, June 20, 2011.
- "Comment period opens on EPA's proposed Mercury and Air Toxics Rule for Coal-Fired Power Plants," Stites & Harbison, PLLC, Client Alert, May 3, 2011.
- "New Hydropower: Technical and Regulatory Challenges," American Water Resources Association – Washington Section Newsletter, July-August 2007.
- "Conflicting Decisions Leave Open Questions about Water Rights, Constitutional Takings and the Endangered Species Act," Washington State Bar Association Environmental & Land Use Law Newsletter, Vol. 32, No. 3, November 2005.
- "Columbia River Summer Spill Reduction Rejected," ABA Water Resources Committee Newsletter, Vol. 8, No. 1, December 2004.
- "Unlocking Regulatory Barriers to Sustainable Energy Systems," Natural Resources & Environment, Fall 2004.
- "Distributed Generation: A Piece of the Energy Supply Puzzle," prepared for the LSI Power Supplies in the Pacific Northwest Conference, August 12-13, 2004.
- "The President's Ocean Commission: Progress Toward a New Ocean Policy," Natural Resources & Environment, Summer 2004.

NEWS & EVENTS

- 17 August 2020, K&L Gates Advises Tokyo Gas America on Two Acquisitions (*Noteworthy Work*)
- 24 October 2019, K&L Gates Advises Global Infrastructure Partners on Paine Field Passenger Terminal Investment (*Press Release*)

AREAS OF FOCUS

- Power
- Energy Storage and Distributed Resources
- Environment, Land, and Natural Resources
- Offshore Wind Energy
- Renewables

REPRESENTATIVE EXPERIENCE

- Advised owner of multi-state hydropower portfolio in the energy regulatory implications of the sale of portfolio including the review of key transaction documents and preparation of disclosure schedules.
- Represent solar developer in development of utility scale projects in Kentucky including in matters before the Kentucky State Board on Electric Generation and Transmission Siting
- Represented a local youth soccer club in successfully defending against an appeal of the land use authorizations necessary to install artificial turf fields.
- Represented a Washington municipality in the relicensing of its 1050 megawatt hydroelectric generating facility including the development and review of key documents and studies supporting the relicensing application.
- Represented a wind energy developer in obtaining and defending against appeals of land use permits authorizing a multi-phase wind energy facility in south-central Washington.
- Represent hydropower licensee in Washington State in negotiations with USFWS and NMFS over requirement to install fish passage.
- Represent Alaska municipality in sale of electric utility to neighboring electric association. This representation includes reviewing liability transfer provisions in the transaction documents and management of environmental permit transfers.
- Represented manufacturing company in the negotiation of a wind virtual power purchase agreement in ERCOT.

- Represent utility in application to transfer FERC licenses to purchaser of four hydropower projects in North Carolina and South Carolina.
- Advised purchaser on environmental and energy regulatory issues associated with the acquisition of solar project in Florida.
- Represented a major international airplane parts manufacturer in negotiations with the Washington State Department of Ecology (“Ecology”) regarding the scope of the feasibility study and performance of the final remediation action for a trichloroethylene contaminated groundwater site in Seattle under the Model Toxics Control Act (“MTCA”), Washington’s equivalent of CERCLA.
- Represented an Australian-based investment bank in the \$7.4 billion purchase of an investor-owned electric and natural gas utility in Western Washington including providing the client and its investors with advice regarding the likely treatment of the transaction by the Washington Utility and Transportation Commission.
- Represented a Canadian electric utility corporation in the initial public offering transaction creating a new corporation for operation of its generation facilities in the United States and Canada.
- Represented a former wood treatment company in negotiations under CERCLA with EPA and the Department of Justice over a remedial design/remedial action consent decree for a creosote contaminated soil, groundwater and sediment site in Idaho. This was the third consent decree in the country to include an independent remedial contractor as a signatory on the decree.
- Represented a Seattle-based die casting company in negotiations under MTCA with Ecology and with other responsible parties regarding the appropriate scope of a remedial investigation and feasibility study for a multi-plume, trichloroethylene contaminated groundwater site in Seattle.
- Represented a Montana hydropower operator in a suit in Montana Superior Court regarding the ownership of the streambeds upon which the operator’s hydropower projects were located.
- Represent coal mine owner in matters relating to MSHA investigation of fatality during independent contractor’s operations
- Advised a national organic food manufacturing facility through the process of obtaining a modification to its NPDES permit allowing for the truck transportation of its wastewater to a treatment facility that could better handle its effluent.
- Represented the owner of a 520 megawatt natural gas-fired electricity and steam generating power plant in Chehalis, Washington, in the sale of the facility to a Portland, Oregon based public utility.
- Represented a local concrete manufacturer in negotiations with Ecology over the scope of remedial action to be performed at an arsenic contaminated site. Negotiations involved coordination with EPA due to site also being part of the Duwamish River Superfund site in Seattle.
- Represented a railroad company in Clean Water Act citizen’s suit arising out of alleged violations of a facility’s stormwater discharge permit.

- Defended an Oregon municipality against a Clean Water Act citizen's suit brought in the Federal District Court for the District of Oregon. The case settled on terms favorable to the City.
- Represented an Oregon municipality in contested proceeding over an emergency water right. Proceeding resulted in a favorable settlement with conservation groups, an Indian tribe, individual citizens, the Oregon Water Resources Department, the Oregon Department of Fish and Wildlife and a neighboring water district.
- Represented a national construction supplies distributor as plaintiff in a lawsuit in San Bernardino County, California, against a realtor and environmental consultant arising out of a failure to discover and disclose the existence of explosives on the client's property. The case settled favorably.
- Represented a multinational food and beverage company in the development of a spring water bottling facility in the Pacific Northwest.
- Represented a Pennsylvania-based utility in the purchase of an investor owned electric and natural gas utility in Kentucky including the due diligence review of the utility's hydroelectric assets and other FERC-related matters.
- Represented multi-national chemical and consumer goods company in the procurement of renewable energy through a wind virtual power purchase agreement in ERCOT.
- Represent telecommunications company in the procurement of renewable energy through solar virtual power purchase agreements.
- Represent appliance manufacturer in the negotiation of solar and wind virtual power purchase agreements in ERCOT.