



## Molly K. Barker

### Associate

Seattle

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## OVERVIEW

Molly Barker is an associate at the firm's Seattle office. She is a member of the Environment, Land, and Natural Resources practice group. Molly's practice focuses on advising on regulatory compliance for solar, wind, hydroelectric, fusion, storage and renewable hydrogen energy projects and carbon management infrastructure permitting, policy and regulation. She also works with clients to build out corporate conservation efforts for the benefit of endangered species, provides guidance on natural resource development and use, compliance counseling on environmental regulations, and advises in resolving enforcement actions. Among other things, her work also encompasses managing regulatory compliance with "emerging" contaminant issues and counseling clients on pollution control in a variety of different settings. Molly's work also includes performing environmental and permitting due diligence for many types of clients' land or corporate acquisitions. Her work has also includes assisting in environmental and energy administrative proceedings, including in front of the Federal Energy Regulatory Commission.

## PROFESSIONAL BACKGROUND

Prior to joining the firm, Molly served as an associate at an environmental and energy law firm where she focused her practice on environmental, real estate, energy, natural resources and land use law. She has worked with public and private clients to conduct due diligence for permitting energy projects, obtain regulatory closure for contaminated sites, bring business operations into environmental regulatory compliance, sell or purchase contaminated properties, and evaluate land use issues arising out of development projects.

Molly's environmental background includes matters involving the Comprehensive Environmental Response Compensation and Liability Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, Endangered Species Act, Marine Mammal Protection Act, Rivers and Harbors Act, Clean Air Act, Clean Water Act, National Environmental Policy Act, Alaska Native Claims Settlement Act, and a variety of local land use codes and state laws. Having also previously served as a judicial law clerk for four judges at the trial court level, she has touched on nearly every type of legal issue that makes its way through the state superior court system.

## ACHIEVEMENTS

- Selected *The Best Lawyers in America*® for work in Environmental Law (2022-2024) and Energy Law (2023-2024)
- Selected to the Super Lawyers Rising Stars list for work in Environmental Law (2017-2023)
- Selected as one of the Top Women Attorneys in Washington, Washington Law & Politics Magazine (2017)

## PROFESSIONAL / CIVIC ACTIVITIES

- Washington State Bar Association (WSBA) Environmental and Land Use Section: Executive Committee Member, 2019-2022 (Secretary, November 2019-November 2020; Communications and Website, November 2020-November 2022); Member (2015-Present)
- Seattle Chapter - Women of Renewable Industry and Sustainable Energy (WRISE): VP of External Affairs (2019-Present); Member (2018-Present)
- Northwest Environmental Business Council: Olympic Chapter Committee Member (2017-Present)
- KCBA Environmental and Land Use Law Section: Section Chair (2016-17); Communications Chair (2015-16); Member (2015-2022)
- Clean Tech Alliance: Government Affairs Committee Member (2019)
- Women in Environment: Member (2015-2018)
- Washington Women Lawyers: Professional Development VP (2017-18); Membership VP (2016-17); Publicity VP (2014-16)
- Friends of Waterfront Seattle: Member of Founding Ambassador Team (2014-15)

## SPEAKING ENGAGEMENTS

- Panelist, Clipper Connect's Panel on Corporate Sustainability and the Importance of Ocean Health (April 27, 2022)
- Co-Presenter, "Greenhouse Gas Assessments for Projects (GAP) Rulemaking" Washington State Bar Association's Environmental and Land Use Law's 2021 Mid-Year Event (May 7, 2021)
- Co-Presenter, "Prospective Purchaser Agreements for Brownfields Transactions: A Practitioner's Comparison of Washington and Oregon" King County Bar Association Environmental and Land Use Section's Lunch CLE, Seattle, WA (June 27, 2019)
- Moderator, "An Update on PFAS: Understanding the Scope of the Challenge and Developing a Solution," Northwest Environmental Business Council's PFAS Workshop, Seattle, WA (May 7, 2019)

- Moderator, “Changing the Energy Landscape: How Renewables and Storage are Taking Over the Grid,” Northwest Environmental and Business Council's Energy Workshop, “Powering Our Future: Insight into the Growth of Renewables,” Seattle, WA (June 7, 2018)
- Emcee, “Cleaning Up Water, Air And Dirt: Litigation And Policy Updates,” King County Bar Association's Environmental And Land Use Section's Half Day Cle, Seattle, Wa (June 8, 2017)

## EDUCATION

- J.D., Northeastern University School of Law, 2013 (*NU Law Journal Staff Member*)
- B.A., Northeastern University, 2010 (*magna cum laude*)

## ADMISSIONS

- Bar of Washington

## THOUGHT LEADERSHIP POWERED BY HUB

- February 2024, ESG and the Sustainable Economy Handbook
- 2 May 2023, Powering the Green Grid With Janice Lin of Strategen and the Green Hydrogen Coalition
- 22 December 2022, Carbon Quarterly – Special Edition
- 15 December 2022, Sustainable Outlook: Enhancing Regional Sustainability With Kathleen Hurley of the Port of Seattle
- 19 September 2022, The Energizer – Volume 106
- 12 September 2022, Sustainable Outlook: Diversifying the Conservation Conversation With Erin Meyer of the Seattle Aquarium
- 25 August 2022, Sustainable Outlook: Approaching Sustainability From All Angles With Nicole DeNamur of Sustainable Strategies
- 28 July 2022, The Energizer – Volume 105
- 11 July 2022, The Energizer – Volume 104
- 8 July 2022, Waste Not Want Not: The Impact of EPA's Decision to Consider Reclassifying Discarded Polyvinyl Chloride as a Hazardous Waste
- 7 July 2022, Carbon Quarterly – Volume 6
- 30 June 2022, The Energizer – Volume 103
- 21 June 2022, Sustainable Outlook: ClimateTech Angel Investing: One of the Keys to Propelling Next Generation Sustainability Innovation

- 16 June 2022, The Energizer – Volume 102
- 31 May 2022 , The Energizer – Volume 101
- 18 May 2022 , The Energizer – Volume 100
- 10 May 2022, Sustainable Outlook: Managing Climate Risk Through Intelligent Engineering Controls and Infrastructure With Erin Rothman, CEO and Founder of StormSensor
- 25 April 2022, Offshore Wind Handbook
- 22 April 2022, Sustainable Outlook: Designing Sustainable Food Systems From Cradle to Grave: How the State of Rhode Island's Director of Food Strategy is Tackling 21st Century Obstacles
- 30 March 2022, Sustainable Outlook: The Push to Modernize the Grid From Smart Buildings With Courtney Blodgett, Director of Strategy at Edo
- 5 November 2021, The Energizer – Volume 99
- 30 September 2021, The Energizer – Volume 98
- 13 September 2021, The Energizer – Volume 97
- 2 September 2021, Carbon Quarterly – Volume 4
- 20 August 2021, The Energizer – Volume 96
- 6 August 2021, The Energizer – Volume 95
- 27 July 2021, The Energizer – Volume 94
- 9 July 2021, The Energizer – Volume 93
- 28 June 2021, The Energizer – Volume 92
- 11 June 2021, The Energizer – Volume 91
- 28 May 2021, The Energizer – Volume 90
- 13 May 2021, The Energizer – Volume 89
- 22 April 2021, Carbon Quarterly – Volume 3
- 22 April 2021, The Energizer – Volume 88
- 14 April 2021, The Missing Link in the Water Wars: Proving Injury and Causation
- 8 April 2021, The Energizer – Volume 87
- 22 March 2021, The Energizer – Volume 86
- 9 March 2021, The Energizer – Volume 85
- 22 February 2021, The Energizer – Volume 84

- 17 February 2021, Washington Department of Ecology Preparing New Rule to Assess Greenhouse Gas Emissions
- 5 February 2021, The Energizer – Volume 83
- 4 February 2021, Carbon Quarterly – Volume 2
- 22 January 2021, In Search of Cooler Waters: Implementing EPA's Temperature Limits on the Columbia and Lower Snake Rivers
- 22 January 2021, The Energizer – Volume 82
- 7 January 2021, The Energizer – Volume 81
- 21 December 2020, The Energizer – Volume 80
- 18 December 2020, When Water Rights Evaporate
- 3 December 2020, The Energizer – Volume 79
- 20 November 2020, Update: Interstate Water Rights Before the Supreme Court - Mississippi v. Tennessee
- 12 November 2020, The Energizer – Volume 78
- 27 October 2020, The Energizer – Volume 77
- 22 October 2020, Contemplating the Future of the Lower Snake River Dams
- 9 October 2020, The Energizer – Volume 76
- 8 October 2020, Carbon Quarterly – Volume 1
- 25 September 2020, The Energizer – Volume 75
- 14 September 2020, The Energizer – Volume 74
- 28 August 2020, The Energizer – Volume 73
- 17 August 2020, The Energizer – Volume 72
- 4 August 2020, Supreme Court's 2020–2021 Preview: Interstate Water Rights
- 30 July 2020, The Energizer – Volume 71
- 23 July 2020, A New Normal? Trump Administration Retooling of Core NEPA Elements
- 16 July 2020, The Energizer – Volume 70
- 2 July 2020, The Energizer – Volume 69
- 22 June 2020, The Energizer – Volume 68
- 9 June 2020, COVID-19: President Trump's Invocation of Emergency Authority to Streamline Environmental Review for Infrastructure Projects

- 4 June 2020, The Energizer – Volume 67
- 26 May 2020, COVID-19: Economic Recovery and Relief from Environmental Regulation May Go Hand in Glove
- 21 May 2020, The Energizer – Volume 66
- 15 May 2020, Risk of Relinquishment Increases with Decision in Loyal Pig, LLC v. Department of Ecology
- 8 May 2020, The Energizer – Volume 65
- 27 April 2020, U.S. Supreme Court Requires EPA Approval of State Law Remedy for Extra Cleanup at ARCO's Anaconda Smelter CERCLA Superfund Site
- 27 April 2020, The Energizer – Volume 64
- 9 April 2020, The Energizer – Volume 63
- 12 March 2020, The Energizer – Volume 62
- 21 February 2020, The Energizer - Volume 61
- 20 February 2020, Finally Finality? The Trump Administration's Answer to One of Environmental Law's Most Contested Questions: What Are "Waters of the United States"?

## OTHER PUBLICATIONS

- "Conversation Advancing in U.S. on Fusion Energy Regulation," *Nuclear Newswire*, 15 December 2022
- "Finding Fusion's Place," American Nuclear Society (May 2022)
- "Calif.'s Renewable Natural Gas Standard: Tips For Suppliers," *Law360*, 13 April 2022
- "Calif.'s Renewable Natural Gas Standard: How It Works," *Law360*, 12 April 2022
- Co-Author, "Bridging the GAP Between Environmental Assessments and Carbon Reduction Mandates," Washington State Bar Association's Environmental & Land Use Law Section Blog (August 16, 2021)
- Co-Author, "Interstate Groundwater Allocations: New Challenges Ahead," American Bar Association Section on Environment, Energy, and Resources' Trends Publication (May 5, 2021)
- Author, "Supreme Court Decides Virginia Uranium, Inc. v. Warren: Rejects Preemption Challenge to Virginia's Moratorium on Mining Uranium Ore on Nonfederal Land," *Marten Law Newsletter* (July 15, 2019)
- Author, "The Big Zero: Washington's Clean Energy Transition Act and the State's Big Shift to Zero Emissions," *NWLawyer Magazine* (July/August 2019)
- Co-Author, "West Coast States and Cities Sprint Ahead with Decarbonization Legislation," American Bar Association Section on Environment, Energy, and Resources, Renewable, Alternative, and Distributed Energy Resources Newsletter (August 7, 2019)



## NEWS & EVENTS

- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 13 September 2021, K&L Gates Releases ESG and the Sustainable Economy Handbook
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch
- 14 January 2021, WRISE Renewable Hydrogen Speaker Series Session 2: Case Studies

## MEDIA MENTIONS

- Quoted, “Conversation advancing in U.S. on fusion energy regulation,” *ANS.org*, 15 December 2022
- An article written by San Francisco partner Buck Endemann and Seattle associates Molly Barker and Matthew Clark regarding California’s renewable natural gas standard appears in *Law360*.

## AREAS OF FOCUS

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

## INDUSTRIES

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

## EMERGING ISSUES

- Environmental Social Governance (ESG)

## REPRESENTATIVE EXPERIENCE

### CARBON

- Assisted in advising on requirements associated with a Class VI injection well permit for carbon sequestration.

### STORAGE

- Advised battery storage developer on compliance with local land-use zoning laws and EFSC process for siting a battery energy storage facility on forest land in Southern Oregon.
- Perform federal, state, and local permitting and environmental due diligence for three separate battery energy storage facilities in Texas with a 300 MW, 200 MW, and 205 MW capacity, respectively.
- Advised on permitting timeline for a solar project and battery energy storage system sited in Southwest Colorado.

### SOLAR

- Assist in the due diligence for debt financing on nine operational solar projects in Virginia.
- Advised on federal environmental siting and permitting due diligence for the development of three separate solar farms in Oahu, Maui, and the big island of Hawai'i.
- Advised client on EFSC certificates and appeals in Oregon for a solar development.
- Conduct environmental due diligence for private equity financing of 18 solar developments spanning Iowa, Wisconsin, Maryland, and Colorado.
- Assist in advising on and developing solar power purchase agreements and related associated leases and financing documents associated with relating to procuring power for both on- and off-site solar power transactions.
- Serve as local counsel for construction lender for a 200 MW solar array development in Michigan.
- Conduct environmental and permitting due diligence on an 80 MW solar and battery energy storage system project located in Montana.
- Advised private equity fund on regulatory and permitting requirements under Clean Water Act for development of solar arrays on top of cranberry bogs in Massachusetts.

### WIND

- Conducted environmental and permitting due diligence for financing the repowering of an existing 89.5 MW wind turbine facility in Texas, and for financing the development of a new 1,029 MW wind turbine facility straddling Texas and Oklahoma.
- Counsel wind energy developer on requirements for turbine development in Mississippi State.
- Advise wind energy developer on bald eagle permitting issues and compliance with BGEPA and the ESA arising under the development of multiple wind farms in Ohio, and assist in administrative permitting proceeding in front of state power siting board.



- Advised on eagle and endangered species issues under SEPA for wind project in Illinois relating to a potential purchase of a wind project.

## **FUSION**

- Worked with fusion energy developer to provide Nuclear Regulatory Commission with policy rationale for how fusion should be regulated within the United States.
- Counsel fusion energy developer on Washington state regulatory parameters on fusion.

## **RENEWABLE HYDROGEN**

- Represented a public-private 501(c)(6) organization in the Pacific Northwest in respect of organization, governance, and compliance, in its efforts to submit an grant proposal for federal funding to the US Department of Energy for the development of a renewable hydrogen hub in the Pacific Northwest.

## **HYDROELECTRIC POWER**

- Counsel electric power company regarding hydroelectric dam licensing and permitting matters with the FERC.

## **FUEL**

- Perform federal, state (including EFSC compliance), and local permitting and environmental diligence for three fuel cells to power datacenters in eastern Oregon.
- For a liquefied natural gas plant in Louisiana, in response to a FERC Section 3 approval under the Natural Gas Act, assisted in responding requests for rehearing on NEPA grounds focusing on environmental justice impacts and greenhouse gas emissions, and advised on the project's PHMSA compliance, as well as legal implications associated with horizontal directional drilling within the subsurface of the project footprint by subsurface mineral owners.
- For a liquefied natural gas plant in Texas, advised client on PHMSA compliance and FERC licensing implications associated with mineral owner's horizontal directional drilling under project footprint and, in response to a FERC Section 3 approval under the Natural Gas Act, assisted in responding requests for rehearing and subsequent appeal to D.C. Circuit on NEPA grounds, focusing on air quality, greenhouse gas emissions, environmental justice and endangered species.
- Represented interveners in front of City of Seattle Hearing Examiner regarding permitting of offshore oil platform to dock.
- Advised client on what sorts of renewable fuel uses are eligible to generate RINs under the Federal Renewable Fuel Standard regulations.

## **AGRIBUSINESS, AQUACULTURE & FOREST PRACTICES**

- Assist clients in negotiation with regulators on aquaculture permitting requirements under the Rivers and Harbors Act.
- Assisted a cattle ranch operator in evaluating and securing water rights and resources.
- Assist agribusinesses on policy initiatives surrounding endangered salmon population recovery efforts.

- Assist multiple timber companies on endangered species conservation planning relating to the marbled murrelet species and other environmental matters related to its forested lands.
- Advised national timber company on maintaining TSCA compliance with its downstream customers as a result of new rules on emerging contaminants.

## **CORPORATE ENVIRONMENTAL DUE DILIGENCE**

- Performed reverse environmental due diligence on a buyer of freeze-dried food companies.
- Performed due diligence on acquisitions of a semiconductor business in California.
- Assists in the environmental and regulatory permitting due diligence phase of corporate transactions for waste and recycling facility in California.

## **REGULATORY COMPLIANCE**

- Evaluate NEPA triggers for multiple federal funding sources associated with a multi-phased development of an urban park over a highway in Texas and develop strategy for compliance with NEPA.
- Worked with Swedish and Singapore local counsel to advise client on the re-export of US-originating batteries from Sweden to Singapore in accordance with US hazardous waste export rules under RCRA and international law.
- Advised semiconductor company on TSCA compliance protocol for imports and downstream uses of emerging contaminants, including PFAS, subject to Consent Orders and Pre Manufacturing Notices, exemptions associated with research and design using such constituents, and compliance protocol for requesting determinations of equivalency for alternative control measures and any determination of confidential business information.
- Advised fuel distributor client on regulatory compliance issues surrounding the Stormwater Pollution Prevention Plan implementing regulations under the Clean Water Act and assisted in negotiating a settlement on behalf of fuel distributor with a citizen group to resolve violations of those regulations.
- Counseled a fuel distributor on regulatory compliance issues surrounding the Spill Prevention, Control, and Countermeasures implementing regulations under the Clean Water Act and assisted in negotiating a Consent Decree and penalty payment on behalf of the distributor with the US EPA to resolve violations of those regulations.
- Assisted client with evaluating appropriate air permitting strategy for expanding generator capacity for datacenter campus located in Texas.
- Advised client on federal and state export and import rules for hemp originating from Oregon.
- Assisted in resolving RCRA enforcement action through a Consent Agreement and Final Order of an aboveground tank facility in Kansas City, Missouri.
- Advised municipal client on creation of a utility in Washington State.

## **CONTAMINATED SITES**

- Assist tire recycling company on how to ensure federal environmental statutory protection when leasing a Superfund site located in Washington State.
- Assisting in a settlement process and associated insurance issues with government and quasi-government entities in cleanup of one sediment unit in Northwestern Washington.
- Assist in developing and building out strategy for contribution and piercing corporate veil against other responsible parties at federal cleanup site in Washington State.
- Assist in advising a quasi-governmental entity on ability to pay funding strategies for a riverfront Superfund cleanup in western Oregon.
- Advised client on funding strategies and mediation with responsible parties for cleanup site impacted by groundwater contamination located in California, worked with state water regulators to come to a funding resolution for same.
- Amassed and assessed one of the world's largest metals and mining companies' nearly 100 legacy cleanup sites to evaluate liability risk exposure under CERCLA.
- Assist agricultural client with resolving breach of lease claims against prior lessee through arbitration relating to violations of the FIFRA; Pesticide Control Act, Hazardous Waste Management Act, and RCRA.
- Assisted in mediating and obtaining a favorable settlement for a dry-cleaner in defense of a cost recovery claim made by a municipality after it condemned a portion of the dry cleaner's property during a road-widening project wherein it encountered hazardous substances attributable to dry-cleaning operations. This involved successfully securing both indemnity insurance coverage to compensate the dry cleaner for the deduction in "just" compensation received from the municipality as a result of its condemnation of contaminated property, and successfully securing defense insurance coverage for completing the remedial investigation and feasibility study of the site even after the municipality's cost recovery action had been settled.
- Successfully structured real estate lease of contaminated properties to mitigate the risks associated with the contamination, and advised prospective buyers and lenders relating to the risks associated with the purchasing of, or lending on, contaminated properties for the development of projects.
- On behalf of multiple landowners and real estate developers, assisted in successfully obtaining regulatory closure of petroleum and solvent sites throughout Washington and recovering remedial action costs from liable parties as a result of brownfield redevelopment projects.
- Successfully pursued cost recovery against former dry cleaning operator on behalf of developer.
- Evaluated arranger liability for a tugboat vessel at the Portland Harbor Superfund Site.
- On behalf of a subsidiary to a publicly traded utility company, assisted in the remedial investigation and evaluation of potential cost recovery strategies, and in insurance defense for a multi-million dollar legacy manufactured gas plant site subject to an Agreed Order on Consent overseen by the US EPA.

- Represented a Washington municipality in developing a funding and allocation strategy to remediate a landfill formerly owned and operated by the municipality that was subject to an Agreed Order overseen by the Washington State Department of Ecology.
- Cost recovery lawsuit for remediation of cleanup from leaking heating oil pipes for mobile home development in Alaska.

## **PUBLIC HEALTH**

- Advise medical research and testing companies on continued medical research, vaccine production, and diagnostic testing operations under state and local “shelter-in-place” orders during COVID-19 pandemic.