



Hong N. Huynh

Special Counsel

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Hong Huynh is a seasoned attorney focused on government and regulatory affairs, municipal law, and environmental law. With a career spanning over two decades, she has developed a reputation as a trusted advisor to public and private entity clients who can help navigate them through and solve complex issues in transactional, regulatory, and litigation matters.

Hong's career at Miller Nash began in 2000, where she initially advised public entities at the state, county, and special district levels. She expanded her expertise by spending seven years as in-house counsel at various Oregon local governments. In 2018, she served as the chief legal officer to Oregon's largest urban flood control district and later as senior assistant county counsel for Clackamas County, where she served as lead counsel on county transportation, development service, and emergency management matters. This in-house experience has provided her with invaluable insight into the unique legal needs and challenges faced by government entities, allowing her to deliver tailored, effective solutions in both routine and high stakes matters.

Her public sector work experience encompasses a wide range of areas, including municipal law, board governance and parliamentary process, intergovernmental agreements, ordinance drafting, public records and ethics, public works planning, construction and operation, public contracts and procurement, service agreements, easements and right of way, cooperative project financing, federal project authorization and funding, building development services, disaster and emergency management, drainage and flood control operation, transportation and roadways, and land use.

In addition to her public sector work, Hong has a robust background in environmental law, including environmental investigation and remediation, hazardous substances and hazardous wastes, and water quality compliance. She has represented clients in both environmental litigation and transactional matters, advising on cleanup cost allocation, hazardous waste management, environmental and natural resources permitting, environmental insurance coverage, and natural resource damage assessments.

Before joining Miller Nash, Hong began her legal career as an honors attorney and attorney-adviser at the Office of the Solicitor, U.S. Department of the Interior

Education

J.D., University of Oregon
School of Law, 1998

- Co-Executive
Editor, *Journal of
Environmental Law
and Litigation*

B.S., Pacific University,
biology and literature,
1995

Bar Admissions

Oregon, 1998

Court Admissions

U.S. District Court, District
of Oregon, 2000

Languages

Vietnamese

in Washington, D.C., where she provided legal counsel to federal agencies on complex issues involving water, energy, and natural resources.

Professional Activities

- Multnomah Bar Association, Member
- Oregon State Bar, Member
 - Environmental and Natural Resources Section
 - Chair, 2012
 - Executive Committee Member, 2005-2013
 - Member, 2005-2013
 - House of Delegates, Region 5 Delegate, 2004-2006
 - Affirmative Action Committee, Member, 2003-2006
- Oregon Asian Pacific American Bar Association, Member, 2010-2018
- Oregon Minority Lawyers Association, Member
- American Bar Association
 - Environment, Energy, and Resources Section, Member, 2000-2018
 - Natural Resources & Environment Magazine, Editorial Board Member, 2005-2016

Civic Activities

- Northwest Environmental Conference, Steering Committee, Member, 2004-2006
- Oregon Vietnamese Community Association, Executive Committee

Representative Experience

Public Entities and Local Government

- Served as a general counsel to several special districts, and as a senior counsel to a county, on legal and policy matters affecting public works in flood management, water drainage, transportation, public roadways and right of ways, and emergency management.
- Advised on all aspects of municipal law and governance, including on board parliamentary process; executive authorities; public meetings and records, public ethics; state legislation and local ordinance drafting and codification; jurisdictional boundaries; public finance; revenue development (utility/service fees and system development charges); administrative law; judicial validation proceedings; executive actions and orders; Oregon Tort Claims Act; human resources; and municipal dissolution and merger.
- Reviewed, drafted, and negotiated on legal documents to support the planning, development, financing, construction, operation, maintenance, and closure various public works in flood management, water drainage, transportation, and public right of ways. This includes intergovernmental agreements; joint contracting authority agreements; public procurement contracts; land use and development permitting; real estate documents (e.g., easements, right of way, and agreements for purchase, sale and development); service agreements; federal project authorization and funding; state cooperative funding agreement; and emergency declarations.
- Specialized knowledge in the areas of Oregon municipal law; Oregon Tort Claims Act; easements and right of way; district boundary change; emergency response; health and safety, drainage law; federal Flood Control Act; and National Flood Insurance Act.

Business Transactions

- Assisted public- and private-entity clients in the due diligence of buying, selling, and foreclosing on real property and businesses that involve contaminated property and pollution control systems. Drafted, reviewed and negotiated contracts, leases, purchase and sale agreements, and access agreements to minimize clients' environmental liability as buyers and sellers of businesses and real property, or as operators of pollution control systems. Also evaluated tools to mitigate liabilities, ranging from Phase I and II environmental investigations, pollution legal liability policies, prospective purchaser agreements, and agency assurance letters.

Clean Water Act Litigation

- Defended a variety of clients, including food processors, confined animal feeding operations, and sewer, recycling, manufacturing, chemical, energy, and property management companies, against federal Clean Water Act claims of EPA, the Oregon DEQ, and citizen groups in Oregon and Washington that led to a favorable bench-trial verdict on civil penalties and to favorable out-of-court settlements.

Sample Litigation Experience

- *Northwest Environmental Defense Council v. Coast Seafoods Co.*, No. 3:16-cv-05906 (W.D. Wash. 2016)
- *OSPIRG v. Pacific Coast Seafoods*, No. 02-924-HA, 374 F. Supp. 2d 902; 341 F. Supp. 2d 1170; 361 F. Supp. 2d 1232 (D. Or. 2004-2005)
- *United States v. The New Portland Meadows, Inc.*, No. 00-507-AS, 2002 U.S. Dist. LEXIS 19132; 2002 U.S. Dist. LEXIS 19153 (D. Or. 2002)

Clean Water Act Regulatory Compliance

- Advised numerous commercial and industrial entities, including seafood processors, agricultural growers, juice and alcoholic beverage producers, confined animal feeding operations, and heavy equipment and metal manufacturers, on water quality issues. Examples are the impact of facility remodeling, construction, and expansion efforts to permitting status as old source or new source under the Clean Water Act, operational compliance with NPDES permits and Oregon's WPCF permits (including holding pond and land-application requirements), and the impact of proposed rulemaking or permitting changes by agencies.

Environmental Insurance Recovery Counseling and Litigation

- Assist clients in searching for historical insurance documents, filing of claims, and seeking coverage for environmental costs from insurance companies at legacy contaminated sites. Also advised them in the purchase of pollution legal liability policies to minimize environmental risks associated with transactions involving contaminated properties.
- Aggressively pursued and litigated against insurance companies on behalf of a ship-repair company, a seafood processor, an industrial property owner, and a community college that lead to coverage for the cost of investigation and cleanup of contaminated sites (including a Superfund site) and assessment and remediation of Natural Resource Damages under historical comprehensive general liability or excess liability policies, as well as environmental impairment liability policies.

Sample Litigation Experience

- *GE Property & Casualty Insurance Co., v. Portland Community College*, No. CV 04-727-HU, 2005 U.S. Dist. LEXIS 40188; 2005 U.S. Dist. LEXIS 40189 (D. Or. 2005)

Toxic Tort Defense

- Advised and defended school districts, colleges, and heavy equipment and metal manufacturers against toxic tort claims, including lead in paint and drinking water, mold, PCBs, radon, and vapor intrusion conditions, leading to dismissal of claims or favorable out-of-court resolutions.

Sample Litigation Experience

- *Wilhite et al. v. University of Oregon*, No. 16CV29281 (Or, Lane County, Or. Cir. Ct. 2016)

Flood Control and Natural Resources Management

- Acted as counsel to local flood-control agencies on environmental, natural resources, and natural disaster issues, including assessing impacts of real property interests and encroachments, and drafting and negotiating intergovernmental agency agreements. Also advised on compliance with flood-control regulations and programs of the U.S. Army Corps of Engineers and the Federal Emergency Management Agency, Endangered Species Act, National Environmental Policy Act, Rivers and Harbors Act (including Section 408 permitting), and Water Resources Reform and Development Act of 2014.

Environmental Cleanup

- Advised clients, ranging from heavy equipment and metal manufacturers, pulp and paper, seafood processors, lumber, chemical, investment, fuel, and property development and management companies, to financial institutions, tribes, and public entities (such as educational institutions and local governments), as well as nonprofit organizations, on the investigation and remediation of single-party and multiparty sites, including Superfund sites listed on the National Priority List, with the goal of obtaining a no-further-action determination, and defended them in allocation process and enforcement actions to minimize environmental liability. Extensive experience includes conducting investigation and remediation in remote, rural settings, including remote Alaska locations, and mitigating potential claims of VOC groundwater contamination and vapor intrusion concerns.

General Hazardous and Solid Waste Regulation

- Advised multinational pulp and paper, metal manufacturing, lumber, and chemical companies and fuel station operators on compliance with the Resource Conservation and Recovery Act and related regulations, such as on financial assurance requirements, storage, transporting, and disposing of hazardous waste, including transportation through international boundaries, hazardous and solid waste characterization determinations, generator requirements to avoid TSDF status, storage containment requirements, and sale of contaminated properties.

Clean Air and Climate Change

- Advised multinational pulp and paper, manufacturing, food processing, and investment companies on complex Clean Air Act issues, including global climate change, new source review requirements, new source performance standards, routine maintenance exemptions under the prevention of significant deterioration regulations, the national emissions standards for hazardous air pollutants, determination of appropriate control technology, and odor-control regulation.

Permitting—Facility Siting and Development

- Acted as lead counsel on environmental and natural resources permitting requirements for the siting, construction, and operation of large infrastructure projects or facilities, including a NASCAR racetrack, windmill farms, a liquid natural gas marine terminal and the associated pipeline project, federally authorized water resources projects, metal anodizing facilities, fuel stations, and a marine shipping terminal. Successfully analyzed the transfer of, developed permitting schedule and strategy for, and advocated through the progression of permitting or approval processes under the CWA, CAA, RCRA (including solid/hazardous waste and UST regulations), NEPA, ESA, Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, Magnuson-Stevens Fishery Conservation and Management Act, Federal Land Policy and Management Act, Rivers and Harbors Act Sections 10 and 408, and Water Resources Reform and Development Act of 2014.

RCRA Cleanup of Metal Manufacturer

- Lead counsel to a multinational manufacturer of metal-handling equipment company in a state RCRA remediation of soil and groundwater contaminated with hydrocarbons and volatile organic compounds;

provided strategic advice to avoid potential classaction RCRA/toxic tort claims, to mitigate liability arising from potential vapor intrusion, to access residential neighborhood homes to sample and install mitigation system, and to manage potential claims of diminution of property value.

RCRA Cleanup of Hops Farm

- Defended, and then advised on the closure of, a hops farm of more than 120 acres that had a former creosote facility with PCP, petroleum, and dioxin contamination in federal RCRA corrective-action cleanup.

Corps Regulatory Permitting

- Counsel to an agricultural operation on a water reservoir siting and development that implicates jurisdictional questions under the 2015 Clean Water Rule, the reasonableness of the impact analysis and mitigation measures, and Section 401 certification under the CWA. Advised and reviewed an offsite wetlands mitigation plan and conservation covenants.

School Environmental Quality

- Advised public and private school entities and institutions on environmental conditions, such as contaminants in drinking water and radon and mold levels in indoor air; experienced in assessing regulatory requirements and agency guidance standards, developing strategy compliance and implementation plan, and advising on parent and community outreach and communication efforts.

Drainage Law

- Counseled property owners and drainage districts on common and statutory drainage law and impacts from development.

Creditors' Rights

- Guided institutional and individual creditors on issues concerning environmental liabilities, such as state and federal lender liability exemptions, environmental due diligence before foreclosure, and safe-harbor activities of lenders.

Indoor Environmental Quality and Worker Safety

- Advised public entities, including school districts and public colleges, on issues affecting indoor air quality (radon), water quality (lead and metals), OSHA requirements, and other environmental conditions (PCBs, lead paint).

Energy Compliance

- Advised an electric utility on complying with the Renewable Portfolio Standard and net metering regulations, and mitigating liability resulting from a power line fire.

Energy Legislation

- Counseled an electric utility on legislative issues including the implications of, and revising, proposed legislation concerning greenhouse gas emissions performance standards, stranded cost recovery in retiring outdated generating facilities, and the development of solar energy systems to meet the Renewable Portfolio Standard.

Publications

- "Lead in Drinking Water: What Schools Need to Know," Miller Nash Graham & Dunn (June 2016)
- "BiOp on the Oregon National Flood Insurance Program: A Case for Levee Accreditation," Miller Nash Graham & Dunn (May 2016)
- "Plan Now So That Excess Water Isn't Trouble Later," *Daily Journal of Commerce* (Mar. 2016)
- "Environmental Considerations," Oregon State Bar, *Oregon Real Estate Deskbook: Volume 4* (Fall 2015)
- "Heading Into Muddied Waters," Miller Nash Graham & Dunn, *News You Can Use* (Aug. 2015)

- “Proposed Option for All Appropriate Inquiries to Mitigate Environmental Liabilities in Flux,” Miller Nash, *GroundBreaking News* (Dec. 2013)
- “Managing the Risks of Ashley II to Protect CERCLA Defense,” American Bar Association, *Natural Resources & Environment* (Fall 2013)
- “PCS Nitrogen Inc. v. Ashley II of Charleston: Prospective Purchasers Beware,” Oregon State Bar, Environmental & Natural Resources Section, *E-Outlook* (Apr. 2013)
- “New Environmental Mitigation Tools in a Revived Economy,” Miller Nash, *GroundBreaking News* (Apr. 2013)
- “Managing Environmental Compliance Information,” *Vancouver Business Journal* (Mar. 2013)
- “The U.S. Race to Export LNG,” American Bar Association, *Natural Resources & Environment* (Fall 2012)
- “Managing Environmental Compliance Information,” Miller Nash (Dec. 2012)
- “March 31 Stormwater Permitting Deadline is Fast Approaching for Oregon Facilities,” Miller Nash (Jan. 2012)

Presentations

- “Toxin in Schools: What are the Next Steps?” Oregon School Boards Association, 70th Annual Convention (Nov. 2016)
- “So You Think You Can Network!” Oregon Asian Pacific American Bar Association (Oct. 2016)
- “Reaching NOAA’s Ark – Implementing ESA BiOp Requirements in Oregon Floodplains,” Oregon State Bar Real Estate & Land Use Section, Annual Summer Conference (Aug. 2016)
- “Local Approaches to Flood Protection and Floodplain Development,” The Seminar Group, Floodplain Development Regulation Under FEMA and ESA (May 2016)
- “Environmental Aspects of Property Transactions,” Northwest Environmental Conference & Tradeshow (Dec. 2015)
- “Funding as a Necessary Starting Point for Doing NRD Assessments,” Law Seminars International, Tribal Natural Resource Damage Assessment seminar (Dec. 2015)
- “Environmental Transactions 101,” Multnomah Bar Association, CLE Presentation (Dec. 2015)
- “Federal, State and Local Responses - From Efforts to Slow Change to New Regulations, Charges and Taxes to Adapt to It,” The Seminar Group, Preparing For Climate Change—New Regulations and New Litigation CLE seminar (Nov. 2014)
- “Integrating Floodplain Management & Salmon Conservation,” Oregon Law Institute of Lewis & Clark Law School, panelist (Nov. 2014)
- “Flood Control,” Oregon State Bar, Annual Environmental Law Year in Review CLE (Oct. 2014)
- “Audits: Voluntary and Regulatory,” Northwest Environmental Conference & Tradeshow (Dec. 2012)
- Opening Remarks, Oregon State Bar, 2012 Annual Environmental and Natural Resources CLE (Oct. 2012)

Recognition & Honors

- Selected for inclusion in *The Best Lawyers in America*® (Portland, OR)
 - Environmental Law, 2018, 2019
- Selected for inclusion as an Oregon Super Lawyer—Rising Star, 2012, 2013
- Named to Portland Business Journal’s 40 Under 40 list, 2008

Personal Activities

Outside of work, Hong maintains an active lifestyle. She enjoys traveling with family to gain new experiences and perspectives. If she is not traveling, she can be found fine-tuning her tennis game on courts throughout the area.