

**CONTACT**

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**PRACTICES**

Endangered Species & Wildlife  
Energy Transition  
Hydropower  
Land Use  
Water

**EDUCATION**

George Washington University  
School of Law  
Georgetown University

**BAR AND COURT ADMISSIONS**

Colorado State Bar  
District of Columbia Bar  
Washington State Bar  
U.S. District Court for the Western  
District of Washington  
U.S. Court of Appeals for the  
Ninth Circuit

**JENNA R. MANDELL-RICE**

**PARTNER**



**Professional Background**

Jenna Mandell-Rice counsels private and public clients on natural resources, environmental, and water-related permitting, with a particular focus on permitting of renewable energy development (wind, solar and hydropower) and water infrastructure projects. She assists clients in developing comprehensive permitting strategies and counseling them through the regulatory process from project conception to construction. Jenna's comprehensive water practice includes advising clients on authorizations for in-water work, water quality requirements, and water supply issues, including water rights. Jenna also assists renewable energy developers with federal permitting including FERC hydropower licensing and federal land-use authorizations for wind and solar projects. She has significant experience navigating endangered and special-status species issues and Federal and state environmental review. Jenna represents clients before federal and state regulatory agencies, and has successfully represented clients in defending projects and permits in state and federal court.

Jenna is a co-coordinator of the firm's Land, Water and Natural Resources practice.

**Representative Experience**

- Advises Snohomish County Public Utility District with respect to relicensing of hydroelectric projects and CWA Section 401 certifications.
- Counsels Roza Irrigation District on all aspects of federal and state environmental permitting and use authorization for a proposed floating pumping plant located within the boundary of the U.S. Bureau of Reclamation's Kachess Reservoir.
- Counsels clients on ESA compliance and litigation issues, including listing, critical habitat designation, consultation, and reintroduction of listed species.
- Represented operator of a FERC-licensed hydroelectric project in action brought by landowners alleging state-law claims for property damage. Obtained dismissal of all claims with prejudice.
- Counsels City of Tacoma on water rights and municipal water supply. Key issues include change and transfer of existing water rights, instream flows and fisheries, trust water and hydropower licensing.
- Provides counsel to several coalitions of industry groups and property owners in Washington and Oregon related to recent changes in the Federal Emergency Management Agency's implementation of the National Flood Insurance Program. Responsibilities include: strategic counsel in response to several Biological Opinions issued by NOAA-Fisheries to FEMA regarding the effect of the NFIP on threatened and endangered species; litigation in federal court challenging implementation of the Biological Opinions; and legislative advocacy related to the pending reauthorization of the NFIP.

ESA Compliance and Litigation:

- Represents California water contractors in federal litigation defending Biological Opinions issued pursuant to the ESA regarding the effects of the State Water Project and the Central Valley Project on threatened and endangered species.
- Represented a California water agency in federal litigation pertaining to the Biological Opinion issued pursuant to the ESA regarding the effects of the California Waterfix project on threatened and endangered species.
- Represented an irrigation districts as defendant-intervenors in ESA litigation pertaining to the U.S. Army

Corps of Engineers and the U.S. Bureau of Reclamation's ESA compliance for several hydroelectric facilities; achieved dismissal of claims.

- Provided strategic counsel in response to several Biological Opinions regarding the effect of the National Flood Insurance Program on threatened and endangered species; represented coalition in litigation in federal court challenging implementation of the Biological Opinions.
- Provided strategic counsel to an irrigation district on ESA consultation regarding the effect of a water supply project on threatened and endangered species.

#### NEPA/SEPA Compliance and Litigation:

- Provides strategic counsel on all aspects of NEPA and SEPA analyses to a wide variety of project proponents, including in relation to an airport expansion project, sediment diversion projects, and water supply and infrastructure projects.
- Provided strategic counsel to an irrigation district on NEPA and SEPA compliance pertaining to the Kachess Drought Relief Pumping Plant.
- Represented an irrigation district as a defendant-intervenor in defending NEPA, SEPA, and ESA compliance for the Yakima Basin Integrated Water Management Plan and the Kachess Drought Relief Pumping Plant. Obtained dismissal of all claims.

#### CWA and FPA Compliance and Litigation:

- Represents hydroelectric licensee in federal litigation pertaining to discharge of pollutants without a National Pollutant Discharge Elimination System Permit.
- Advises hydroelectric operator on compliance with National Pollutant Discharge Elimination System permitting requirements.
- Advises public utilities with respect to relicensing of hydroelectric projects and CWA Section 401 certifications.
- Represents several hydroelectric licensees and utilities in challenges to Clean Water Act Section 401 water quality certifications before state administrative boards and in federal court.
- Advises hydroelectric licensees and utilities on compliance with state water quality standards.
- Represents hydroelectric licensee in FERC relicensing process for a pumped-storage project.
- Represented operator of a FERC-licensed hydroelectric project in action brought by landowners alleging state-law claims for property damage. Obtained dismissal of all claims with prejudice.

#### Water Rights

- Counsels public utilities and municipalities on water rights and municipal water supply. Key issues include change and transfer of existing water rights, instream flows and fisheries, trust water and hydropower licensing.
- Advises hydroelectric operator on water rights for a pump-storage project on the Colorado River.
- Prepared amicus curiae briefs for state association of municipal water utilities pertaining to municipal water law.
- Represents county in litigation pertaining to interpretation of minimum instream flow.

### Awards and Honors

"Best Lawyers in America" by *Best Lawyers*

Environmental Law, 2021-2023,

Land Use and Zoning Law, 2022-2023

Natural Resources Law, 2022-2023

### Super Lawyers

Rising Star, 2022, 2023

### Chambers USA

Environment - Washington State: 2023-2024

### Articles and Presentations

- FNREL's Water Law Institute, The Foundation for Natural Resources and Energy Law , Chandler AZ, 11/02/2023
- Fall Hydro Camp, Northwest Hydroelectric Association, Tacoma WA, 09/15/2022
- PNWA Environment Committee Webinar, Pacific Northwest Waterways Association, 07/26/2022
- Northwest Hydroelectric Association's 2022 Annual Conference, Portland OR, 02/23/2022
- Transboundary River Management: Transboundary Management of the Lower Snake River Dams, The Water Report, Issue 210, 08/19/2021
- The Purposeful Tension Within the Doctrine of Beneficial Use, Rocky Mountain Mineral Law Foundation Journal , Vol. 58 Issue 1 pp. 33-71, 08/02/2021
- VNF Live - Post Election Natural Resources Policy Outlook, 11/13/2020
- 2018 Wetlands in Washington, Law Seminars International, Seattle WA, 05/21/2018
- 2018 Environmental and Land Use Law Midyear Meeting & Conference, Washington State Bar Association, Cle Elum WA, 05/10/2018
- National Flood Insurance Program: Oregon Communities & Developers Face Significantly Heightened Standards Following ESA Consultation - National Impacts Probable, The Water Report, Issue 152, 10/15/2016
- [Criminal Liability For OCS Contractors Re-Examined](#), Law360.com , 06/10/2016
- 2016 Environmental and Land Use Law Midyear Conference and Meeting, Cle Elum Washington, 05/05/2016

### Alerts

- Biden Administration Announces Proposed Phase Two NEPA Regulations, 08/09/2023
- Permitting Reform Package Passes as Part of Debt Ceiling Deal, 06/12/2023
- CEQ Issues Updated NEPA Guidance on GHG Emissions, 01/12/2023
- EPA Proposes to Expand State and Tribal Authority Over Section 401 Water Quality Certifications, Reversing Trump Era Rule, 06/15/2022
- Biden Administration Walks Back Key Trump Era NEPA Regulation Changes, 04/26/2022
- UPDATED: EPA and Army Corps Announce Latest Update to Definition of "Waters of the United States", 12/07/2021
- EPA and Army Corps Announce Latest Update to Definition of "Waters of the United States", 11/29/2021
- UPDATED: Rough Waters Ahead, Once Again: A District Court Vacates the 2020 Navigable Waters Protection Rule as the EPA and Corps WOTUS Definition Rulemaking Continues, 09/03/2021
- Rough Waters Ahead, Once Again: A District Court Vacates the 2020 Navigable Waters Protection Rule as the EPA and Corps WOTUS Definition Rulemaking Continues, 09/02/2021
- EPA Reissues Temperature TMDLs in the Columbia and Lower Snake Rivers, 08/30/2021
- The Death Knell for Dispersants?, 08/17/2021
- Criminal and Civil Liability a Possibility for Vessel Owners Following Unix Line Decision and Transition to

Electronic Records, 04/28/2021

- U.S. Supreme Court Issues Decision Clarifying Boundaries of FOIA's Deliberative Process Privilege, 03/05/2021
- UPDATED: Army Corps Proposes to Reissue Nationwide Permits Two Years Ahead of Schedule, 09/18/2020
- Army Corps Proposes to Reissue Nationwide Permits Two Years Ahead of Schedule, 08/24/2020
- New International Fuel Standard for Vessels Takes Effect, 01/08/2020
- Settlement of *County of Maui* Prolongs Clean Water Act Uncertainty for Regulated Community, 09/27/2019
- Federal Guidance on Section 404 Permitting Under Development, 02/14/2019
- Federal Agencies Release the New Clean Water Rule to Replace "Waters of the United States" (WOTUS) Rule, 12/12/2018
- Final Corps Guidance Issued on Section 408 Permitting, 10/11/2018
- EPA and Corps Seek Additional Comment on Proposal to Repeal Definition of WOTUS, 07/18/2018
- FEMA Adopts Significant Changes to the National Flood Insurance Program ("NFIP") Under the Rubric of a "Clarification", 06/08/2018
- Corps Issues Draft Guidance on Section 408 Permission Requests, Solicits Comments, 03/02/2018
- EPA and Corps Amend Effective Date of WOTUS Rule, Open Door to Legal Challenges, 02/12/2018
- Supreme Court Rules that District Courts Retain Jurisdiction Over "Waters of the United States" (WOTUS) Rule, 01/29/2018
- EPA Proposes to Amend Effective Date of WOTUS Rule, 11/27/2017
- Oregon Communities and Developers Face Significantly Heightened Standards Following ESA Consultation on National Flood Insurance Program, 05/25/2016
- Criminal Liability for OCS Contractors Reexamined in Black Elk Decision, 05/09/2016
- Washington Streamlines Business Entity Administrative Requirements, 02/17/2016