

CONTACT

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PRACTICES

Climate Change
Endangered Species & Wildlife
Land Use
Public Lands
Water

EDUCATION

Seattle University School of Law
Auburn University

BAR AND COURT ADMISSIONS

Washington State Bar

DUNCAN M. GREENE

PARTNER



Professional Background

Duncan assists private and public clients with a wide range of land development and real property issues. He provides strategic advice and support to clients in planning and permitting large, complex projects in the energy, transportation, and natural resource sectors. He has in-depth knowledge of local, state, and federal land use and environmental entitlements processes, including compliance with state and federal environmental laws such as NEPA/SEPA, the Clean Water Act, the Endangered Species Act, and the Migratory Bird Treaty Act, and he helps clients obtain project approvals such as planning and zoning entitlements, wetlands and in-water construction permits, and shorelines approvals. When litigation is necessary, Duncan defends approvals in local, state, and federal administrative and judicial proceedings.

Duncan also represents clients in transactional and litigation matters related to real property issues such as purchase and sale of land and water rights, development agreements, boundary line modifications, leases, licenses, and easements. At the intersection of land use and real estate, he has extensive experience with project impact mitigation, mitigation banks, land conservation, and conservation easements.

Duncan serves as one of the firm's Associate Coordinators.

Representative Experience

- Represented Garfield County, Snohomish County Public Utility District (PUD), Puget Sound Energy (PSE), and other public and private clients in permitting, environmental review, and related litigation over major energy projects, including wind power, solar power, hydropower, electric transmission, Liquefied Natural Gas (LNG) export, and traditional oil and gas transmission projects.
- Represented Washington cities and counties, and special purpose districts, including Seattle, Tacoma, Bainbridge Island, Cle Elum, Normandy Park, Chelan County, Whatcom County, Garfield County, and Skagit County, in local planning and permitting processes and related litigation before city and county Hearing Examiners, the Growth Management Hearings Board (GMHB), the Shorelines Hearings Board (SHB), the Pollution Control Hearings Board, and the courts.
- Assisted private landowners with a wide range of land use and real estate matters, including planning, zoning, and permitting for development projects and related litigation; negotiating and drafting purchase and sale agreements, easements, development agreements, and other transactional documents; and due diligence review of land use and real estate matters.
- Counseled municipalities, water associations, water districts, and private landowners regarding issues pertaining to water rights and water infrastructure, including due diligence review of water rights; transactions involving water rights; analysis and drafting of regulations affecting water rights; and drafting of agreements regarding private water associations, shared wells, and water use.
- Advised public and private clients on land conservation matters, including drafting legislative reports for the Washington State Recreation and Conservation Office (RCO) on conservation easements and other land preservation mechanisms, acting as Special Assistant Attorney General to RCO in drafting a model farmland preservation easement and other conservation easement templates, and representing land trusts and other private landowners in matters involving conservation easements.

Awards and Honors

"Best Lawyers in America" by *Best Lawyers*

Land Use and Zoning Law, 2018-2025
Litigation-Land Use and Zoning, 2021-2025
Real Estate Law, 2021-2025

Super Lawyers

Rising Stars, 2010-2015
2019

Cheney/Metzger Legal Writing Scholarship

2004

Butch Blum Award of Excellence, Legal Arena

2004

Articles and Presentations

- Washington State Association of Municipal Attorneys 2020 Fall Conference, Washington State Association of Municipal Attorneys, 10/14/2020
- National Hydropower Association 2019 California Regional Meeting, National Hydropower Association, 12/09/2019
- Alaska Resources Conference, Alaska Resources Conference, 11/21/2019
- PNWA Annual Convention, Pacific Northwest Waterways Association, 10/10/2019
- Tribal Water in the Pacific Northwest, Law Seminars International, 09/19/2019
- 2019 Northwest Land Camp, Northwest Land Camp, Walla Walla WA, 06/20/2019
- Shoreline Development & Permitting in Washington State, The Seminar Group, 06/06/2019
- WSBA Environmental and Land Use 2016 Mid-Year Conference, 05/06/2019
- Washington State Association of Municipal Attorneys 2019 Spring Conference, Washington State Association of Municipal Attorneys, 04/23/2019
- National Environmental Business Council, National Business Council, 03/06/2019
- Hearing Examiners Association of Washington Annual Conference, Hearing Examiners Association of Washington Annual Conference, 10/25/2018
- WSBA Environmental and Land Use Section, 12/14/2017
- GMHB Finds "De Facto" GMA Amendment in County's Planning Action for Point Wells Sewer Service, 03/07/2017
- Landslide Law and Science, Law Seminars International, 03/03/2017
- 2017 San Juan Islands Agricultural Summit, 02/11/2017
- Washington State Association of Municipal Attorneys 2016 Spring Conference, Washington State Association of Municipal Attorneys, 04/27/2016
- WSBA Real Property, Probate, and Trust Section, Planning the Future of the Farm, 09/24/2015
- 2015 Northwest Land Camp, 04/04/2015
- Washington Public Ports Association Annual Meeting, 12/10/2014
- 23rd Annual Conference on Growth Management, Law Seminars International, 11/04/2014
- 13th Annual Wetlands in Washington, Law Seminars International, Seattle WA, 10/02/2013
- Chapter 23: Land Use and Environmental Law - Part Seven: Wetlands, Washington Lawyers Practice Manual

King County Bar Association (2013), 10/01/2013

- Washington Oil and Gas Update, Texas Wesleyan Law Review, Vol. 19 pp. 623, 04/01/2013
- Chapter 13: Mining Law – Surface Mining Regulations, Federal Mining Regulations, Washington Real Property Deskbook Series, Volume 6: Land Use Development (4th ed. 2012)
Chapter editor, Editorial Board Member, 10/01/2012
- Tax Increment Financing (TIF) Meets Transfer of Development Rights (TDR), PSS News, Puget Sound Section, Washington Chapter of the American Planning Association, 07/01/2011
- Conservation Tools: An Evaluation and Comparison of the Use of Certain Land Preservation Mechanisms, Prepared for the Washington State Recreation and Conservation Office pursuant to SHB 1957 (2009), 12/23/2009
- Bright Lines, Safe Harbors: Urban and Rural Densities under the Growth Management Act (And Who Gets to Decide?), Environmental & Land Use Law Newsletter, Washington State Bar Association, pp. 2-12, 04/01/2008
- Affordable Housing Incentive Programs under HB 2984: 'Bonus' or Burden?, Real Property, Probate & Trust Newsletter, Washington State Bar Association, Vol. 34 Issue 4 pp. 1, 12/01/2007
- Dynamic Conservation Easements: Facing the Problem of Perpetuity in Land Conservation, Seattle University Law Review, Vol. 28 pp. 883-923, 06/01/2005

Alerts

- U.S. Supreme Court's *Sackett* Decision Prompts Conforming WOTUS Rule, 09/11/2023
- U.S. Supreme Court Narrows WOTUS, Limiting Scope of Clean Water Act, 05/30/2023
- UPDATED: Biden Administration Redefines "Waters of the United States," Expanding Regulation Under Clean Water Act, 01/18/2023
- EPA Proposes to Expand State and Tribal Authority Over Section 401 Water Quality Certifications, Reversing Trump Era Rule, 06/15/2022
- Shifting Baselines: New Guidance from Army Corps and NMFS on ESA Compliance for Work on Existing Structures, 01/19/2022
- Army Corps Finalizes 41 Nationwide Permits for Activities in Jurisdictional Waters and Wetlands, 01/13/2022
- 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
- Army Corps Finalizes Certain Nationwide Permits Two Years Ahead of Schedule, 01/15/2021
- 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
- U.S. Supreme Court Holds Clean Water Act Covers Groundwater in *Limited Circumstances*, 04/24/2020
- Settlement of *County of Maui* Prolongs Clean Water Act Uncertainty for Regulated Community, 09/27/2019

- Federal Agencies Repeal Obama-Era Clean Water Rule, 09/17/2019
- Federal Judge Limits the Reach of the WOTUS Rule, 08/27/2019
- EPA Issues Revised CWA Section 401 Guidance to States, 06/10/2019
- 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
- WOTUS Rule Reinstated in 26 States After Court Enjoins Delay, 08/27/2018
- EPA and Corps Seek Additional Comment on Proposal to Repeal Definition of WOTUS, 07/18/2018
- Washington Legislature Adopts a "Hirst Fix," and Department of Ecology Considers Comments on Its Interpretation of the New Legislation, 02/27/2018
- 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
- EPA Proposed Rule to Rescind Definition of "Waters of the United States", 07/17/2017
- Conservation Easements: A Powerful Land Use, Estate, and Tax Planning Tool, 04/28/2017
- Climate Change Policy Developments in Washington State, 03/23/2017
- Trump Executive Order Starts Review and Potential Revision of the "Waters of the United States" (WOTUS) Rule, 03/01/2017
- Court of Appeals Confirms When LUPA's 21-Day Appeal Period Begins to Run and When "Collateral Attacks" on Prior Unchallenged Land Use Decisions Are Barred, 02/28/2017
- Army Corps of Engineers Releases 2017 Nationwide Permits, 01/19/2017
- Army Corps Proposes Renewal of Nationwide Permits for Work in Waters of the U.S., 05/26/2016
- Rural Water Strategies: The Saga Continues, 11/19/2015
- Federal Agencies Release Final "Waters of the United States" Rulemaking, Sending Ripples Through the Regulated Community, 06/08/2015
- Seattle's Affordable Housing "Linkage Fee": A Renewed Attempt to Impose Mandatory Affordable Housing Requirements, 05/18/2015
- Court Delivers Victory to Whatcom County on GMA Case Regarding Rural Water Supply, 02/25/2015
- Proposed Rule Redefining Jurisdictional "Waters of the United States" Under the Clean Water Act – Comment Period Closes, but Questions Remain Open, 11/17/2014
- Federal Agencies Issue Long-Awaited "Waters of the United States" Notice of Proposed Rulemaking for Clean Water Act Jurisdiction, 03/27/2014
- Draft Rulemaking Likely to Expand Clean Water Act Jurisdiction, 09/19/2013