

CONTACT

tck@vnf.com
202.298.1948

PRACTICE AREAS

Alaska Natural Resources
Endangered Species
Environmental Litigation
Hydropower
Native Affairs
Pipeline & LNG
Pipeline Safety
Public Lands

EDUCATION

University of Washington School
of Law
Duke University
Davidson College

BAR AND COURT ADMISSIONS

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

TYSON C. KADE
OF COUNSEL



Professional Background

Tyson Kade represents clients before federal agencies and state and federal courts on a broad range of matters involving natural resources, pipeline safety, and energy law. Tyson provides strategic guidance on Endangered Species Act, National Environmental Policy Act, Marine Mammal Protection Act, and Clean Water Act compliance and liability issues, assists with permitting for energy development and hydropower projects, and advises on Magnuson-Stevens Fishery Conservation and Management Act matters related to West Coast and Alaska fisheries. Tyson also counsels pipeline and electric clients on regulatory compliance and administrative appeals involving the Federal Energy Regulatory Commission and the Pipeline and Hazardous Materials Safety Administration.

Representative Experience

Permitting and Regulatory Compliance

- Counsels various clients on Endangered Species Act rulemaking and compliance issues, including species listings, critical habitat designations, Section 7 consultations, habitat conservation plans, and reintroduction of listed species.
- Advises developer on Endangered Species Act, Migratory Bird Treaty Act, and National Environmental Policy Act issues regarding construction of a multi-state renewable energy transmission line.
- Provides counsel to national coalition on legislative, regulatory, and policy matters under the Endangered Species Act.
- Assists pipeline and LNG companies with responses to PHMSA enforcement orders, pipeline asset jurisdictional analyses, and regulatory compliance.
- Advises public utilities in developing and revising their Open Access Transmission Tariffs and associated business practices in response to FERC's Order Nos. 890 and 1000.
- Counsels seafood companies on a variety of regulatory matters, including fisheries rationalization, quota allocation, crab arbitration, and bycatch issues.

Civil Litigation and Administrative Appeals

- *Alaska Oil and Gas Ass'n et al. v. Pritzker* (D. Alaska and Ninth Circuit) – Counsel to Alaska Native regional corporations, municipal governments, and regional tribal government in challenge to the Endangered Species Act listing of a distinct population segment of bearded seal.
- *Alaska Oil and Gas Ass'n et al. v. Jewell* (D. Alaska and Ninth Circuit) – Counsel to an Alaska municipal government in challenge to the Endangered Species Act designation of critical habitat for the polar bear.
- *Markle Interests, LLC v. USFWS* (Fifth Circuit) – Represented trade organizations as amici curiae in challenge to designation of critical habitat for the dusky gopher frog under the Endangered Species Act.
- *Alaska Oil and Gas Ass'n et al. v. NMFS* (D. Alaska and Ninth Circuit) – Counsel to Alaska Native regional corporations, municipal governments, and regional tribal government in challenge to the Endangered Species Act listing of a subspecies of ringed seal.
- *National Wildlife Federation v. FEMA* (W.D. Wash.) – Represented group of property owners and industry associations in defending implementation of a biological opinion on the National Flood Insurance Program in the Puget Sound region.
- *Richert v. City of Tacoma* (Wash. State) – Represented Washington municipality in defending against

state law property damage claims associated with relicensing of hydroelectric project.

- Counsel to various pipeline operators in PHMSA enforcement proceedings involving notices of probable violations, proposed civil penalties, proposed compliance orders, and petitions for reconsideration.

Government Service

U.S. District Court for the Western District of Washington

Judicial Extern, Hon. James L. Robart, 2005

U.S. Department of Justice

Law Clerk, Environment & Natural Resources Division, 2004

U.S. Department of Commerce - National Marine Fisheries Service

Fisheries Management Specialist, 2000-2003

Articles and Presentations

- Speaker, "ESA Listing and Critical Habitat Issues" - National Hydropower Association Annual Conference, Washington DC, 04/29/2015
- Chapter 1: National Environmental Policy Act, Washington Real Property Desk Book, Washington State Bar Association (4th ed. 2013), Vol. 7, 10/01/2013
- Land Use Appeals, Washington Lawyers Practice Manual, Part 16, Vol. 23 (2013), 10/01/2013
- Federal District Court Upholds Criminal Conviction Under the Migratory Bird Treaty Act for Bird Deaths Resulting from Oil Refinery Operations, The Environmental Counselor, Vol. 292 pp. 5, 12/01/2012
- Speaker, "Endangered Species Act and Pending Listings in Washington" - Growth Management and Land Use Conference, Law Seminars International, Seattle WA, 11/09/2012
- Legal and Policy Implications of the Perception of Property Rights in Catch Shares, Washington Journal of Environmental Law & Policy, Vol. 2 pp. 283, 10/02/2012
- Endangered Species Act, Impacts of Compliance in Alaska, Alaska Business Monthly, pp. 42, 08/01/2010
- Speaker, "Arctic Species: Incidental Take Compliance Strategies" - Endangered Species Act - Impacts on Alaska Conference, Law Seminars International, Anchorage AK, 02/25/2010
- Clean Water Act Enforcement: EPA Issues New Action Plan, The Water Report, Issue 69, 11/15/2009
- The Exxon Valdez Reopener: Natural Resources Damage Settlements and Roads Not Taken, Alaska Law Review, Vol. 22 pp. 135-211, 06/01/2005
- Characterization of Montmorillonite Colloids Containing a Clay-Adsorbed Bipolar Poly(pyridyl)osmium(II) Complex, Journal of the Chemical Society, Issue 17 pp. 1821-1823, 06/01/1995

Alerts

- Culvert Treaty Fishing Rights Litigation: While the Ninth Circuit Denies Rehearing; Does the Dissent Provide Passage to the Supreme Court?, 06/20/2017
- Trump Order Sets Up Rollback of Obama Energy and Climate Action, 03/30/2017
- Administration Marches Ahead on Critical Habitat:
Final Rules and Exclusion Policy Lay Groundwork for Broader Designation of Critical Habitat and Reshape the Adverse Modification Inquiry, 02/22/2016
- Fish and Wildlife Service Contemplates Expansive Permitting Regime to Address Incidental Take of Migratory Birds, 06/08/2015
- Fifth Circuit Holds that Federal Power Act Preempts Certain State Property Damage Claims, 10/17/2013

- National Ocean Council Releases Final Ocean Policy Implementation Plan, 04/25/2013
- Federal District Court Orders Washington State Agencies to Repair Culverts that Block Fish Passage in Violation of Tribes' Treaty Fishing Right, 04/11/2013