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CONTACT

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202.298.1894

PRACTICES

Electric
Endangered Species & Wildlife
Energy Transition
Public Lands
Water

EDUCATION

The Catholic University of America, Columbus School of Law
University of Idaho

BAR AND COURT ADMISSIONS

District of Columbia Bar
California State Bar
U.S. Court of Appeals for the District of Columbia Circuit

JOSEPH B. NELSON

PARTNER



Professional Background

Joe has over thirty years of experience providing counsel to clients on electric regulatory and environmental permitting matters. His practice includes representation of clients before federal agencies and commissions including the Federal Energy Regulatory Commission, U.S. Fish and Wildlife Service, National Marine Fisheries Service, National Park Service, U.S. Bureau of Reclamation, Department of Energy and Department of the Interior.

Joe serves as regulatory counsel to public and investor-owned electric utilities before the Federal Energy Regulatory Commission (FERC). His FERC practice includes counselling on open access transmission policies and wholesale energy market rules, lead counsel in administrative hearings and settlements, and engagement on regulatory and policy initiatives. Joe also advises clients on large-scale, linear projects subject to federal environmental review and permitting requirements under the Endangered Species Act, Clean Water Act, National Environmental Policy Act and other environmental statutes.

A common element to Joe's practice is his ability to synthesize the in-depth, technical components of utility systems, energy markets and individual project development with complex federal regulatory schemes. In addition, Joe has significant experience litigating before state and federal courts in the District of Columbia, California and Texas, and before federal administrative agencies.

Prior to private practice, Joe served on the legislative staffs of former Sen. James A. McClure (R-ID) and Rep. Larry E. Craig (R-ID), where he worked primarily on agricultural and budget matters.

Joe is co-coordinator of firm's Electric practice.

Representative Experience

Environmental Permitting & Compliance

- Strategic advice and advocacy before federal agencies on behalf of a merchant transmission developer for a multi-state, high-voltage transmission line on permitting and environmental reviews under the National Environmental Policy Act, Endangered Species Act, Migratory Bird Treaty Act and other federal environmental laws.
- Regulatory analysis, legislative drafting and strategic advice as counsel to the National Endangered Species Act Reform Coalition on legislative, regulatory and policy matters under the Endangered Species Act.
- Counsel to renewable energy project developers, resource users, municipal governments and other parties with respect to compliance with the Migratory Bird Treaty Act and Bald & Golden Eagle Protection Act.
- Due diligence reviews on federal environmental matters in relation to potential acquisitions, funding and loan guarantees for high-voltage transmission lines, liquefied natural gas import and export terminals and other energy infrastructure projects.

Energy Regulatory

- Counsel to the Long Island Power Authority with respect to its participation as a transmission owner, generator and load serving entity in the organized electricity markets operated by the New York

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Independent System Operator, ISO New England and PJM Interconnection.

- Counsel to a Canadian utility on U.S. energy regulatory matters before the Federal Energy Regulatory Commission.
- Development and negotiation of transmission pooling arrangements, transmission service agreements, and related agreements for coordinated transmission system operations.

Water Resources

- Counsel on permitting and use of water rights for private and public water systems including water storage projects, municipal and irrigation diversions and hydroelectric project operations.
- Counsel to foreign investors on the regulation and operation of private water utilities within the United States.

Awards and Honors

Legal 500 - Recommended Attorney

Energy Regulation - Conventional Power, 2019-2021

"Best Lawyers in America" by *Best Lawyers*

Energy Law, 2023-2027

Articles and Presentations

- 2022 Legal and Regulatory Conference, American Public Power Association, Colorado Springs CO, 11/07/2022
- ABA Publishes Van Ness Feldman's ESA Regulatory Revisions Article, American Bar Association, 02/09/2022
- Administration Proposes Improvements to ESA Petition Process, Irrigation Leader, Vol. 7 Issue 11 pp. 30-31, 01/31/2016
- American Public Power Association, Washington DC, 03/09/2015
- New ESA Rule on Economic Impacts in Critical Habitat Designations, Law Seminars International, 12/13/2013
- "Adverse Modification" Rulemaking on the Horizon for the Endangered Species Act?, Newsletter of the Independent Petroleum Association of America, 05/03/2013

Alerts

- FERC Acts on Large Load Integration: Key Issues Addressed, 06/19/2026
- Department of Energy Directs FERC to Act on the Study and Interconnection of Large Loads and Hybrid Facilities, FERC Opens Public Comment Period, 10/28/2025
- Supreme Court Narrows Both Judicial Review and Scope of NEPA Reviews, 06/02/2025
- Administration Proposes Rescinding the Endangered Species Act Regulatory Definition of "Harm", 04/17/2025
- Changes Ahead for NEPA Implementation Under President Trump's Energy Dominance Executive Order, 01/24/2025
- FERC Moves Forward with First-Ready, First-Served Generator Interconnection Process, 03/28/2024
- FERC Reforms Generator Interconnection Procedures, 08/09/2023
- Permitting Reform Package Passes as Part of Debt Ceiling Deal, 06/12/2023
- Backstop Siting: FERC Issues Notice of Proposed Rulemaking, 12/22/2022
- Administration Proposes First Wave of Endangered Species Regulatory Revisions, 11/05/2021
- Changes to the Migratory Bird Treaty Act Enforcement Regime Take Flight, 10/08/2021

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- FERC Invites Comment on Reforms to Regional Transmission Planning, Cost Allocation & Generator Interconnection, 07/19/2021
- Final Rule Codifying Exemption of Incidental Take Under the Migratory Bird Treaty Act Faces Substantial Hurdles, 02/02/2021
- 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
- Updated: CEQ Issues Final Rule to Modernize NEPA Regulations, 08/07/2020
- CEQ Issues Final Rule to Modernize NEPA Regulations, 07/20/2020
- President Orders National Security Review for Certain Electric System Equipment, 05/05/2020
- COVID-19: Congressional, Federal Agency and Electric Sector Planning for Continued Operations, 03/21/2020
- FERC Extends Certain Filing Deadlines and Takes Other Actions in Response to the Impacts of COVID-19, 03/20/2020
- U.S. Fish and Wildlife Service Proposes to Codify Exemption of Incidental Take Under the Migratory Bird Treaty Act, 01/31/2020
- Navigable Waters Protection Rule Substantially Narrows the Scope of Waterbodies Subject to Regulation under the Clean Water Act, 01/24/2020
- CEQ Proposes Revisions to Regulations Governing Federal Agency Implementation of NEPA, 01/10/2020
- 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
- Administration Issues Significant Revisions to Endangered Species Act Implementation, 08/13/2019
- 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
- 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
- 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
- DC Circuit's *Emera Maine* Decision Creates Questions for Electric Utility ROE Policy, 04/18/2017
- Trump Executive Order Starts Review and Potential Revision of the "Waters of the United States" (WOTUS) Rule, 03/01/2017
- Administration Takes an Initial Step in its Regulatory Reform Agenda , 01/31/2017
- Army Corps of Engineers Releases 2017 Nationwide Permits, 01/19/2017
- Administration Marches Ahead on Critical Habitat:

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Final Rules and Exclusion Policy Lay Groundwork for Broader Designation of Critical Habitat and Reshape the Adverse Modification Inquiry, 02/22/2016

- Congress Establishes Federal Permitting Reforms for Major Infrastructure Projects, 01/06/2016
- Fish and Wildlife Service Contemplates Expansive Permitting Regime to Address Incidental Take of Migratory Birds, 06/08/2015
- BLM Contemplates Oil and Gas Royalty Reform, 04/23/2015
- Proposed Rule Redefining Jurisdictional "Waters of the United States" Under the Clean Water Act – Comment Period Closes, but Questions Remain Open, 11/17/2014
- Administration Proposes Changes to Endangered Species Act Critical Habitat Designations and "Adverse Modification" Definition , 05/15/2014
- Federal Agencies Issue Long-Awaited "Waters of the United States" Notice of Proposed Rulemaking for Clean Water Act Jurisdiction, 03/27/2014
- OUTLOOK 2014: KEY POLICY DEVELOPMENTS, 01/23/2014
- Clearer Picture Emerging on Proposed Rule Redefining Jurisdictional Waters of the United States, 12/23/2013
- Draft Rulemaking Likely to Expand Clean Water Act Jurisdiction, 09/19/2013