

David M. "Max" Williamson



Counsel

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Max Williamson assists private and public clients with environmental and specialty litigation, regulatory counseling, transactional and legislative issues. His experience spans project development, real estate, climate change, Clean Air Act, transportation planning, toxic tort, Clean Water Act and wetlands, OSHA, Superfund and brownfields programs, environmental insurance, EPCRA and spill reporting, hazardous materials transportation, recycling and corporate affiliate liability issues in the domestic and international contexts.

Max is a recognized authority and frequent speaker and author in the area of climate change. He was recently profiled as one of the leading Environmental lawyers in the District of Columbia and one of the leading Climate Change lawyers in the United States in *Chambers USA: America's Leading Business Lawyers* (2010). He advises a range of clients including trade associations, manufacturers, project developers and investors on emerging greenhouse gas regulation and market opportunities under state, regional and federal climate change and renewable energy initiatives, as well as under the federal Clean Air Act and other environmental laws. Max currently represents the Carbon Offset Providers Coalition, an association of companies that finance and develop greenhouse gas reduction projects to generate greenhouse gas offsets for the voluntary and compliance carbon markets. He also wrote one of the first template Voluntary Emissions Reduction Purchase Agreements (VERPA) used in the United States. He is integrally involved in the legislative process and has written significant climate-related legislative proposals now being considered by Congress. Max is also involved in the cutting-edge area of ecosystem credit markets, such as water quality trading and streambank restoration.

Max's transportation experience includes representing the Association of Metropolitan Planning Organizations (AMPO) and various transportation authorities. He also serves on the board of directors of the Alexandria Transit Company in Northern Virginia. He represented a coalition of national trade associations in the successful defense of multiple strategic litigation cases involving transportation planning in various urban areas, including a precedent-setting decision establishing the right of trade associations to intervene in environmental cases in *Utahns for Better Transportation v. Slater*, 295 F.3d 1111 (10th Cir. 2002).

Other notable successes include decisions of first impression under the Clean Water Act in *American Canoe Ass'n v. D.C. Water and Sewer Authority*, 306 F. Supp. 2d 30 (D.D.C. 2004), addressing liability of corporate affiliates under the Superfund statute in *BP Amoco Chemical Co. v. Sun Oil Co.*, 316 F. Supp. 2d 166 (D. Del. 2004) and interpreting a cap-and-trade program for refrigerants under the Montreal Protocol in *Arkema, Inc. v.*

INDUSTRIES

Alternative Energy
Biofuels
Clean Technology
Energy
Energy Transactions
Federal Regulatory
Finance
Government
Insurance
Real Estate
Solar Energy
State Regulatory
Wind Energy

PRACTICES

Climate Change and Carbon Markets
Climate Change Litigation
Energy
Environmental
Environmental Litigation
Environmental Transactional Counsel
Regulatory Agency and Environmental Experience

EDUCATION

JD, 1997, *magna cum laude*, Vermont Law School
Masters Environmental Law, 1997, *summa cum laude*, Vermont Law School
BA, 1987, Yale University

ADMISSIONS

Rhode Island (inactive)
District of Columbia
New York

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EPA, 618 F.3d1 (D.C. Cir. 2010). Max also served as lead counsel in litigation on behalf of Hispanic and African-American families that resulted in one of the largest monetary settlements and most comprehensive reform of discriminatory zoning and housing practices ever achieved under the Fair Housing Act.

Max also has extensive experience in the area of environmental insurance and commercial insurance policies, such as environmental cost cap and pollution legal liability policies in brownfield redevelopment and contaminated property cleanups, environmental liability transfers, transactions involving environmental risks, use of insurance products in creation of ecosystem credits such as greenhouse gas reduction projects (carbon offsets) and carbon capture and sequestration (CCS) and traditional property damage and personal injury liability. He has litigated insurance and coverage claims in state and federal courts involving environmental contamination, toxic torts (such as lead-based paint) and chemical exposure, as well as negotiation of policies and coverage terms.

Max served as a law clerk to the Honorable Robert G. Flanders, Jr., of the Rhode Island Supreme Court, and clerked at the U.S. Department of Justice, Environment and Natural Resources Division Appellate Section. He is a licensed master of steam and sail vessels in the U.S. Merchant Marine.

REPRESENTATIVE EXPERIENCE

- Represents the carbon offset project development sector in the legislative arena on Capitol Hill and executive agencies such as the U.S. Environmental Protection Agency and U.S. Department of Agriculture.
- Legal counsel to national trade association on climate change issues affecting food processing industry.
- Represented a carbon market participant in administrative proceedings before the California Climate Action Reserve.
- Represents a major carbon registry with regard to legislative developments affecting carbon trading.
- Provides government affairs, legislative services and strategic advising to major carbon market participants.
- Provides transactional and project development legal support to greenhouse gas emissions reduction technology provider at various facilities.
- Provides corporate finance and environmental/carbon markets advice to an investment fund focused on urban sustainability strategies.
- Represents national trade association with regard to climate change policies affecting highway and transit transportation investment.
- Advises major paper products manufacturer regarding strategic planning for climate and energy policies at the federal and state levels.

- US Supreme Court
- US Court of Appeals for the DC Circuit
- US Court of Appeals for the First Circuit
- US Court of Appeals for the Second Circuit
- US Court of Appeals for the Third Circuit
- US Court of Appeals for the Ninth Circuit
- US Court of Appeals for the Tenth Circuit
- US Court of Appeals for the Eleventh Circuit
- US District Court for the District of Columbia
- US District Court for the District of Maryland
- US District Court for the Southern District of New York
- US District Court for the Eastern District of New York

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- Served as lead counsel for a transportation and construction industry coalition in a series of lawsuits under the Clean Air Act and other federal statutes brought by environmental and local groups to stop highway and development projects in Atlanta, Salt Lake City, San Francisco, Sacramento, Baltimore and Washington, DC.
- Helped a small real estate developer force one of the world's largest oil companies to clean up petroleum contamination from underground storage tanks (USTs) impacting a mixed-use residential/commercial development in the District of Columbia.
- Represented the largest municipal wastewater authority in the country with precedent-setting litigation establishing that environmental groups may not use the Clean Water Act (or its civil penalty and attorneys fee provisions) to enforce complaints about odor or aesthetics.
- Defeated multimillion-dollar indemnification and environmental claims under the federal CERCLA statute and Delaware state law alleging that a parent company was liable for environmental contamination of Delaware Bay caused by its former joint venture subsidiary.
- Assists financial institutions, private equity groups and public companies (both purchasers and targets) with environmental due diligence and disclosures involving mergers and acquisition and asset purchases.
- Planned and conducted environmental audits at manufacturing facilities throughout the United States, including development of operating procedures and compliance tools.
- Successfully defended a District of Columbia government agency in a Freedom of Information Act lawsuit in Washington, DC Superior Court, including winning a protective order and sanctions against opposing counsel.
- Guided a major manufacturing company through remediation and real estate transactions involving contaminated properties (brownfields) in several northeastern states. He has also advised the District of Columbia government in drafting regulations under its Brownfields Redevelopment Act.
- Assisted clients with obtaining or modifying permits under the Clean Air Act, Clean Water Act, Underground Injection Control Program, UST regulations, zoning and planning board approval, and other regulatory programs.

PUBLICATIONS

- EPA Greenhouse Gas Reporting Rules Expanded to Oil and Gas - Update (November 11, 2010)
- An Eye On Offshore Energy Development *Law360* (October 6, 2010)
- EPA Issues Final "Tailoring" Rule for Greenhouse Gas Emissions (May 24, 2010)
- "How Would U.S. Climate Legislation Affect Latin America?" *Inter-American Dialogue's Latin America Energy Advisor* (May 2010)
- EPA Greenhouse Gas Reporting Rules Expanded to Oil and Gas, Enhanced Oil Recovery (March 31, 2010)
- EPA Rulemaking Hotline (March 3, 2010)
- "How Significant is Carbon Financing for Latin America?" *Inter-American Dialogue's Latin America Energy Advisor* (March 2010)
- EPA Issues New Renewable Fuels Standard (February 12, 2010)
- Stricter Smog Standards to Burden Municipalities and Industry (January 26, 2010)
- Increased Governmental Scrutiny on Oil and Gas Development (January 11, 2010)
- EPA Greenhouse Gas Reporting Starts January 2010 (November 16, 2009)
- "Legal Aspects of Carbon Trading: Kyoto, Copenhagen, and beyond," co-author of chapter: "Emissions Trading in the US: Legal Issues" *Oxford University Press* (October 2009)
- EPA Moving Ahead with Regulation of Greenhouse Gases (September 25, 2009)
- "Corporate Affiliate Liability after U.S. v. Bestfoods," *BNA Toxics Law Reporter* (December 2007)
- "Nationwide Overview of Transportation Conformity Lawsuits," *Metropolitan Corporate Counsel* (April 2001)

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- "Closing the Loop: Leadership in the Legal Community Through Court-Mandated Recycled Paper Usage," *D.C. Bar Environment, Energy and Natural Resources Section* (October 2000)
- "Protecting Regional Transportation Projects Against Clean Air Attacks," *Development Magazine* (Winter 2000)

PROFESSIONAL RECOGNITION

- Profiled as one of the leading Environmental lawyers in the District of Columbia and one of the leading Climate Change lawyers in the United States, *Chambers USA: America's Leading Business Lawyers* (2010-2011)

BRIEFINGS, SEMINARS & SPEECHES

- Climate Finance North America 2011 (June 14, 2011)
- California's Carbon Market (January 27, 2011)
- 2010 CO2 Conference Week (December 6, 2010)
- "The Future of World Carbon Markets: How Critical is the U.S. Role?" (July 13, 2010)
- ABA Environmental Conference, "Climate Change: Copenhagen and Beyond" (March 2010)

AFFILIATIONS

- District of Columbia Bar Association, Past Chair of Environment, Energy and Natural Resources Section
- Rhode Island Bar Association
- Federal Bar Association
- American Bar Association
- Sailors for the Sea, Board of Directors
- Haitian Education and Leadership Program, Pro Bono Counsel
- Board of Directors, D.C. Environmental Film Festival

IN THE NEWS

- "US States Steam Ahead," *Recharge* (December 3, 2010)

PRESS RELEASES

- David "Max" Williamson joins Andrews Kurth as Counsel in the Washington, DC Office (April 20, 2009)