



## Molly K. Barker

### Associate

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## OVERVIEW

Molly Barker is an associate at the firm's Seattle office. She is a member of the environment, land, and natural resources practice group. Molly's practice focuses on advising on renewable energy and carbon management infrastructure permitting, building out corporate conservation efforts, providing guidance on natural resource development and use, compliance counseling on environmental regulations, and resolving enforcement actions. Among other things, her work encompasses litigating matters in front of the Federal Energy Regulatory Commission and state power siting boards relating to a variety of energy development projects, managing solar power purchase agreements for clients working to reduce their overall carbon footprint, to advising on the regulation and permitting of fusion and solar projects. She regularly works with timber and agribusiness clients on conservation efforts and natural resource issues. She also advises clients during the environmental due diligence period on a number of mergers and acquisitions, as well as counsels clients on pollution control in a variety of different settings.

## PROFESSIONAL BACKGROUND

Prior to joining the firm, Molly served as an associate at an environmental and energy law firm where she focused her practice on environmental, real estate, energy, natural resources and land use law. She has worked with public and private clients to conduct due diligence for permitting energy projects, obtain regulatory closure for contaminated sites, bring business operations into environmental regulatory compliance, sell or purchase contaminated properties, and evaluate land use issues arising out of development projects.

Molly's environmental background includes matters involving the Comprehensive Environmental Response Compensation and Liability Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, Endangered Species Act, Marine Mammal Protection Act, Rivers and Harbors Act, Clean Air Act, Clean Water Act, National Environmental Policy Act, Alaska Native Claims Settlement Act, and a variety of local land use codes and state laws. Having also previously served as a judicial law clerk for four judges at the trial court level, she has touched on nearly every type of legal issue that makes its way through the state superior court system.

## ACHIEVEMENTS

- Selected as one of *The Best Lawyers in America*® for work in Environmental Law by Best Lawyers (2021)
- Selected as a Rising Star by Super Lawyers for work in Environmental Law (2021, 2020, 2019, 2018, 2017)
- Selected as one of the Top Women Attorneys in Washington, Washington Law & Politics Magazine (2017)

## PROFESSIONAL / CIVIC ACTIVITIES

- Washington State Bar Association Environmental and Land Use Section: Executive Committee Member, 2019-2022 (Secretary, November 2019 – November 2020; Communications and Website, November 2020 – November 2021); Member (2015 – Present)
- Clean Tech Alliance: Government Affairs Committee Member (2019 – Present)
- Seattle Chapter - Women of Renewable Industry and Sustainable Energy (WRISE): VP of External Affairs (2019 - Present); Member (2018 – Present)
- Northwest Environmental Business Council: Olympic Chapter Committee Member (2017 – Present)
- Women in Environment: Member (2015 - Present)
- KCBA Environmental and Land Use Law Section: Section Chair (2016-17); Communications Chair (2015-16); Member (2015 – Present)
- Washington Women Lawyers: Professional Development VP (2017-18); Membership VP (2016-17); Publicity VP (2014-16)
- Friends of Waterfront Seattle: Member of Founding Ambassador Team (2014-15)

## SPEAKING ENGAGEMENTS

- Co-Presenter, “Greenhouse Gas Assessments for Projects (GAP) Rulemaking” Washington State Bar Association’s Environmental and Land Use Law’s 2021 Mid-Year Event (May 7, 2021)
- Co-Presenter, “Prospective Purchaser Agreements for Brownfields Transactions: A Practitioner’s Comparison of Washington and Oregon” King County Bar Association Environmental and Land Use Section’s Lunch CLE, Seattle, WA (June 27, 2019)
- Moderator, “An Update on PFAS: Understanding the Scope of the Challenge and Developing a Solution,” Northwest Environmental Business Council’s PFAS Workshop, Seattle, WA (May 7, 2019)
- Moderator, “Changing the Energy Landscape: How Renewables and Storage are Taking Over the Grid,” Northwest Environmental and Business Council’s Energy Workshop, “Powering Our Future: Insight into the Growth of Renewables,” Seattle, WA (June 7, 2018)

- Emcee, “Cleaning Up Water, Air And Dirt: Litigation And Policy Updates,” King County Bar Association's Environmental And Land Use Section's Half Day Cle, Seattle, Wa (June 8, 2017)

## EDUCATION

- J.D., Northeastern University School of Law, 2013 (*NU Law Journal Staff Member*)
- B.A., Northeastern University, 2010 (*magna cum laude*)

## ADMISSIONS

- Bar of Washington

## THOUGHT LEADERSHIP POWERED BY HUB

- 5 November 2021, The Energizer – Volume 99 (*Alerts/Updates*)
- 30 September 2021, The Energizer – Volume 98 (*Alerts/Updates*)
- 13 September 2021, The Energizer – Volume 97 (*Alerts/Updates*)
- 13 September 2021, ESG and the Sustainable Economy Handbook (*Books*)
- 2 September 2021, Carbon Quarterly – Volume 4 (*Alerts/Updates*)
- 20 August 2021, The Energizer – Volume 96 (*Alerts/Updates*)
- 6 August 2021, The Energizer – Volume 95 (*Alerts/Updates*)
- 27 July 2021, The Energizer – Volume 94 (*Alerts/Updates*)
- 9 July 2021, The Energizer – Volume 93 (*Alerts/Updates*)
- 28 June 2021, The Energizer – Volume 92 (*Alerts/Updates*)
- 11 June 2021, The Energizer – Volume 91 (*Alerts/Updates*)
- 28 May 2021, The Energizer – Volume 90 (*Alerts/Updates*)
- 13 May 2021, The Energizer – Volume 89 (*Alerts/Updates*)
- 22 April 2021, Carbon Quarterly – Volume 3 (*Alerts/Updates*)
- 22 April 2021, The Energizer – Volume 88 (*Alerts/Updates*)
- 14 April 2021, The Missing Link in the Water Wars: Proving Injury and Causation (*Alerts/Updates*)
- 8 April 2021, The Energizer – Volume 87 (*Alerts/Updates*)
- 22 March 2021, The Energizer – Volume 86 (*Alerts/Updates*)

- 9 March 2021, The Energizer – Volume 85 (*Alerts/Updates*)
- 22 February 2021, The Energizer – Volume 84 (*Alerts/Updates*)
- 17 February 2021, Washington Department of Ecology Preparing New Rule to Assess Greenhouse Gas Emissions (*Alerts/Updates*)
- 5 February 2021, The Energizer – Volume 83 (*Alerts/Updates*)
- 4 February 2021, Carbon Quarterly – Volume 2 (*Alerts/Updates*)
- 22 January 2021, In Search of Cooler Waters: Implementing EPA's Temperature Limits on the Columbia and Lower Snake Rivers (*Alerts/Updates*)
- 22 January 2021, The Energizer – Volume 82 (*Alerts/Updates*)
- 7 January 2021, The Energizer – Volume 81 (*Alerts/Updates*)
- 21 December 2020, The Energizer – Volume 80 (*Alerts/Updates*)
- 18 December 2020, When Water Rights Evaporate (*Alerts/Updates*)
- 3 December 2020, The Energizer – Volume 79 (*Alerts/Updates*)
- 20 November 2020, Update: Interstate Water Rights Before the Supreme Court - Mississippi v. Tennessee (*Alerts/Updates*)
- 12 November 2020, The Energizer – Volume 78 (*Alerts/Updates*)
- 27 October 2020, The Energizer – Volume 77 (*Alerts/Updates*)
- 22 October 2020, Contemplating the Future of the Lower Snake River Dams (*Alerts/Updates*)
- 9 October 2020, The Energizer – Volume 76 (*Alerts/Updates*)
- 8 October 2020, Carbon Quarterly – Volume 1 (*Alerts/Updates*)
- 25 September 2020, The Energizer – Volume 75 (*Alerts/Updates*)
- 14 September 2020, The Energizer – Volume 74 (*Alerts/Updates*)
- 28 August 2020, The Energizer – Volume 73 (*Alerts/Updates*)
- 17 August 2020, The Energizer – Volume 72 (*Alerts/Updates*)
- 4 August 2020, Supreme Court's 2020–2021 Preview: Interstate Water Rights (*Alerts/Updates*)
- 30 July 2020, The Energizer – Volume 71 (*Alerts/Updates*)
- 23 July 2020, A New Normal? Trump Administration Retooling of Core NEPA Elements (*Alerts/Updates*)
- 16 July 2020, The Energizer – Volume 70 (*Alerts/Updates*)
- 2 July 2020, The Energizer – Volume 69 (*Alerts/Updates*)

- 22 June 2020, The Energizer – Volume 68 (*Alerts/Updates*)
- 9 June 2020, COVID-19: President Trump's Invocation of Emergency Authority to Streamline Environmental Review for Infrastructure Projects (*Alerts/Updates*)
- 4 June 2020, The Energizer – Volume 67 (*Alerts/Updates*)
- 26 May 2020, COVID-19: Economic Recovery and Relief from Environmental Regulation May Go Hand in Glove (*Alerts/Updates*)
- 21 May 2020, The Energizer – Volume 66 (*Alerts/Updates*)
- 15 May 2020, Risk of Relinquishment Increases with Decision in Loyal Pig, LLC v. Department of Ecology (*Alerts/Updates*)
- 8 May 2020, The Energizer – Volume 65 (*Alerts/Updates*)
- 27 April 2020, U.S. Supreme Court Requires EPA Approval of State Law Remedy for Extra Cleanup at ARCO's Anaconda Smelter CERCLA Superfund Site (*Alerts/Updates*)
- 27 April 2020, The Energizer – Volume 64 (*Alerts/Updates*)
- 9 April 2020, The Energizer – Volume 63 (*Alerts/Updates*)
- 12 March 2020, The Energizer – Volume 62 (*Alerts/Updates*)
- 21 February 2020, The Energizer - Volume 61 (*Alerts/Updates*)
- 20 February 2020, Finally Finality? The Trump Administration's Answer to One of Environmental Law's Most Contested Questions: What Are "Waters of the United States"? (*Alerts/Updates*)

## OTHER PUBLICATIONS

- Co-Author, "Bridging the GAP Between Environmental Assessments and Carbon Reduction Mandates," Washington State Bar Association's Environmental & Land Use Law Section Blog (August 16, 2021)
- Co-Author, "Interstate Groundwater Allocations: New Challenges Ahead," American Bar Association Section on Environment, Energy, and Resources' Trends Publication (May 5, 2021)
- Author, "Supreme Court Decides Virginia Uranium, Inc. v. Warren: Rejects Preemption Challenge to Virginia's Moratorium on Mining Uranium Ore on Nonfederal Land," Marten Law Newsletter (July 15, 2019)
- Author, "The Big Zero: Washington's Clean Energy Transition Act and the State's Big Shift to Zero Emissions," NWLawyer Magazine (July/August 2019)
- Co-Author, "West Coast States and Cities Sprint Ahead with Decarbonization Legislation," American Bar Association Section on Environment, Energy, and Resources, Renewable, Alternative, and Distributed Energy Resources Newsletter (August 7, 2019)

## NEWS & EVENTS

- 13 September 2021, K&L Gates Releases ESG and the Sustainable Economy Handbook (*Press Release, Practice & Regional News*)
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch (*Rankings & Recognitions*)
- 14 January 2021, WRISE Renewable Hydrogen Speaker Series Session 2: Case Studies (*Event*)

## AREAS OF FOCUS

- Environment, Land, and Natural Resources
- Corporate Energy Sourcing and Sustainability
- Energy Storage and Distributed Resources
- Offshore Wind Energy
- Power
- Renewables

## INDUSTRIES

- Agribusiness
- Consumer Products
- Energy
- Power Generation and Transmission
- Utilities

## REPRESENTATIVE EXPERIENCE

### CARBON

- Assists in the environmental and regulatory permitting due diligence phase of corporate transactions for solar facilities, waste and recycling facilities, and other corporate operations.

### ENERGY

- Counsel fusion energy developer on lobbying efforts associated with the development of federal regulations on fusion.
- Counsel fusion energy developer on state regulatory parameters on fusion.



- Advise solar developer on local land use laws impacting siting of solar farm project.
- Counsel wind energy developer on requirements for turbine development in Mississippi State.
- Counsel electric power company regarding hydroelectric dam licensing and permitting matters with the Federal Energy Regulatory Commission.
- Advise wind energy developer on bald eagle permitting issues arising under the development of multiple wind farms in Ohio State, and assist in administrative permitting proceeding in front of state power siting board.
- Assist in advising on and developing solar power purchase agreements and related associated leases and financing documents associated with relating to procuring power for both on- and off-site solar power transactions
- Lawsuit in front of City of Seattle hearing examiner regarding permitting of offshore oil platform to dock.

### **AGRIBUSINESS, AQUACULTURE & FOREST PRACTICES**

- Assist clients in negotiation with regulators on aquaculture permitting requirements under the Rivers and Harbors Act.
- Assist agribusiness and agricultural clients to evaluate and secure water rights and water resources.
- Assist agribusinesses on policy initiatives surrounding endangered salmon population recovery efforts.
- Assist multiple timber companies on endangered species conservation planning and other environmental matters related to its forested lands.

### **ENVIRONMENTAL**

- Assists in the environmental and regulatory permitting due diligence phase of corporate transactions for solar facilities, waste and recycling facilities, and other corporate operations.
- Assist municipality in negotiating with regulators in resolving Clean Air Act violations occurring at its municipal landfill.
- Assist agricultural client with resolving breach of lease claims against prior lessee through arbitration relating to violations of the Federal Insecticide, Fungicide, and Rodenticide Act; Pesticide Control Act, Hazardous Waste Management Act, and Resource Conservation and Recovery Act.
- Advised fuel distributor client on regulatory compliance issues surrounding the Stormwater Pollution Prevention Plan implementing regulations under the Clean Water Act and assisted in negotiating a settlement on behalf of fuel distributor with a citizen group to resolve violations of those regulations.
- Counseled a fuel distributor on regulatory compliance issues surrounding the Spill Prevention, Control, and Countermeasures implementing regulations under the Clean Water Act and assisted in negotiating a Consent Decree and penalty payment on behalf of the distributor with the U.S. EPA to resolve violations of those regulations.
- Assisted in mediating and obtaining a favorable settlement for a dry-cleaner in defense of a cost recovery claim made by a municipality after it condemned a portion of the dry cleaner's property during a road-

widening project wherein it encountered hazardous substances attributable to dry-cleaning operations. This involved successfully securing both indemnity insurance coverage to compensate the dry cleaner for the deduction in “just” compensation received from the municipality as a result of its condemnation of contaminated property, and successfully securing defense insurance coverage for completing the remedial investigation and feasibility study of the site even after the municipality’s cost recovery action had been settled.

- Successfully structured real estate lease of contaminated properties to mitigate the risks associated with the contamination, and advised prospective buyers and lenders relating to the risks associated with the purchasing of, or lending on, contaminated properties for the development of projects.
- On behalf of multiple landowners and real estate developers, assisted in successfully obtaining regulatory closure of petroleum and solvent sites throughout Washington and recovering remedial action costs from liable parties as a result of brownfield redevelopment projects.
- Cost recovery against former dry cleaning operator on behalf of developer.
- Evaluated arranger liability for tugboat vessel at Portland Harbor Superfund Site.
- On behalf of a subsidiary to a publicly traded utility company, assisted in the remedial investigation and evaluation of potential cost recovery strategies, and in insurance defense for a multi-million dollar legacy manufactured gas plant site subject to an Agreed Order on Consent overseen by the U.S. EPA.
- Represented a Washington municipality in developing a funding and allocation strategy to remediate a landfill formerly owned and operated by the municipality that is subject to an Agreed Order overseen by the Washington State Department of Ecology.
- Cost recovery lawsuit for remediation of cleanup from leaking heating oil pipes for mobile home development in Alaska.

## **PUBLIC HEALTH**

- Advise medical research and testing companies on continued medical research, vaccine production, and diagnostic testing operations under state and local “shelter-in-place” orders during COVID-19 pandemic.