



Sean M. Sullivan

Partner

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Sean Sullivan is a partner in the firm's Environment & Natural Resources Group. Sean advises clients throughout the country regarding all of the major federal environmental programs, with a particular emphasis on hazardous waste, Brownfields redevelopment, the Clean Water Act, the Clean Air Act, and emerging contaminants like PFAS and 1,4-dioxane. He leverages his broad range of experience and his technical background in environmental science to find creative, cost-effective solutions for the most challenging environmental matters.

Sean is licensed to practice in the District of Columbia, Florida, North Carolina and Virginia and before the U.S. Supreme Court. He is recognized as a "Band 1" attorney for Environment by *Chambers USA* (2019-present). He serves as chair of the North Carolina Chamber of Commerce's Environmental Policy Committee and previously served as chair of the North Carolina Bar Association's section for environment, energy and natural resources.

Sean received his Juris Doctor, *cum laude*, from American University Washington College of Law.

Practice Areas

- Environment & Natural Resources
- Renewable Energy
- Wind Energy
- Solar & Energy Storage

Experience

RCRA

- Represented international waste management company regarding post-closure permitting and implementation of site-wide corrective action where unexploded ordinance and chemical weapons were alleged to be present.
- Advised electric utilities and owners of independent, coal-fired power plants on applicability of landfill corrective action requirements at coal ash landfills.
- Represented numerous Fortune 500 manufacturers and national retailers in evaluating legitimacy of recycling, applicability of Subtitle C definition of solid waste and use/reuse recycling exclusions.
- Represented developers in obtaining "contained-out" determinations for soil and groundwater contaminated with listed hazardous waste.
- Advised Fortune 500 manufacturer regarding decommissioning of abandoned chrome plating line without triggering RCRA corrective action requirements.
- Represented electric utilities regarding waste characterization of defective and damaged solar panels, including evaluation of potential alternatives to existing recycling exemptions.
- Defended university in enforcement action arising out of use of e-manifest system and assisted in developing new waste management procedures to prevent recurrence.
- Assisted chemical manufacturer in developing strategy for managing environmental media contaminated with PFAS compounds.
- Defended national logistics company against alleged violations of RCRA applicable to material damaged in transit.
- Defended manufacturer of e-cigarettes and retailers against alleged violations of RCRA related to disposal of expired and damaged nicotine cartridges.
- Resolved numerous underground storage tank compliance and corrective action matters.

Clean Water Act

- Represented downstream utility seeking to require upstream utilities to reduce discharges of 1,4-dioxane and PFAS to surface waters based on failure of permitting authority to establish water quality based effluent limits sufficient to protect downstream water quality.
- Represented Fortune 500 manufacturer seeking thermal variance pursuant to CWA Section 316(a) regarding in-stream temperature standards for cold-water fish species.
- Defended electric vehicle manufacturer in enforcement action brought by local POTW and in negotiations regarding timing of increases in production versus permit requirements.
- Represented electric utility in challenge to EPA's effluent limitation guidelines for wastewater from coal gasification plants.
- Represented coalition of downstream water utilities opposed to interbasin transfer of surface water in North Carolina.

- Counsel to Fortune 500 manufacturer challenging inclusion of previously undisclosed requirements in final NPDES permit and subsequent negotiation of schedule of compliance for addressing those requirements.
- Represented developer in resolving federal and state enforcement actions concerning sediment discharges from stormwater pond and in pursuing claims against upstream landowners for contribution to such discharges.
- Represented numerous residential, commercial and solar developers in connection with wetlands delineation, jurisdictional and permitting issues.
- Assisted nationwide retailer in developing wastewater compliance program for its stores, all of which are subject to categorical pretreatment standards, including creation of treatment technology demonstration for existing and future discharges.
- Represented paper manufacturer in enforcement actions brought by state and by local POTW regarding alleged unpermitted discharges and alleged upset events at POTW.
- Represented developer in enforcement action, including negotiation of consent judgment to govern further work, regarding 110-acre residential development with multi-year history of off-site sediment discharges.
- Represented manufacturer in investigation of alleged disposal of chemical wastes via sanitary sewer at its manufacturing facility.
- Coordinated nationwide audit of over 60 manufacturing facilities for compliance with metal finishing pretreatment standards in 40 C.F.R. Part 433.

CERCLA/State Cleanup Programs/Brownfields

- Lead counsel to Fortune 500 manufacturing company alleged to be primarily liable for NPL site in South Carolina.
- Lead counsel to international waste management company in cost recovery litigation against parties responsible for causing releases at site subject to RCRA corrective action.
- Lead counsel to manufacturing company decommissioning a 100-year-old manufacturing facility pursuant to an Administrative Order on Consent with EPA.
- Counsel to prospective developers at redevelopment sites throughout North Carolina, including construction of new Wake Forest University medical school campus in downtown Charlotte and university housing projects in Raleigh, Chapel Hill and Boone.
- Lead counsel to chemical manufacturer responsible for remediation of historic releases of chlorinated solvents from former wastewater treatment lagoon.
- Assisted manufacturers in obtaining No Further Action determinations for historic releases in North Carolina following enactment of legislation allowing risk-based cleanup of groundwater contamination and in obtaining similar determinations for sites in South Carolina, Florida and Texas.
- Lead counsel to developer in cost recovery and toxic tort litigation against parties responsible for causing releases at shopping mall.
- Assisted developer and property owner in developing joint strategy to address vapor intrusion risk from historic releases in accordance with EPA Administrative Order on Consent and to complete

remaining site work through North Carolina Brownfields Program.

- Assisted paper manufacturer in resolving alleged liability for dioxin contamination at paper mill.
- Assisted numerous clients in responding to Section 104(e) information requests.
- Advised foundry operator regarding strategies for resolving liabilities associated with disposal of foundry sand and its historic use as structural fill, including the use of divisibility of the harm principles to achieve de minimis party status at federal and state-led cleanup sites.
- Represented clients in completing Brownfields and voluntary cleanup programs in Virginia, South Carolina, Georgia, Florida, Alabama and Texas.

Clean Air Act

- Represented electric vehicle manufacturer in developing permitting strategy for construction of lithium-ion battery plant on property adjacent to vehicle assembly plant.
- Represented developer of utility-scale, fuel cell-powered generation plant in developing permitting strategy to avoid aggregation with nearby stationary sources providing biogas for the fuel cell and in evaluation of applicability of hazardous air pollutant emissions standards.
- Represented poultry company in obtaining synthetic minor construction permit for reconstructed feed mill, including response to significant environmental justice-related objections to facility.
- Represented paper mill to negotiate consent order to achieve compliance with 1-hour SO₂NAAQS following receipt of monitoring data indicating exceedance of numerical standard would occur prior to completion of emissions control retrofits and repowering.
- Represented electric utility in supporting state's opposition to inclusion within Ozone Transport Region and in connection with EPA's SSM SIP Call.
- Defended organic chemical recycling company regarding alleged violations of NSPS, PSD and LDAR requirements.
- Defended automobile parts manufacturer in investigation regarding whether after-market products constituted defeat devices.
- Represented owner of foundries and metal working facilities with audit policy disclosures and in developing strategy to comply with requirements of Subparts 6X and 6Z MACT standards.
- Lead counsel to owner of coal-fired power plant in responding to PSD compliance-related information request from EPA.

NEPA / NHPA / Federal Lands

- Represented developer of interstate natural gas pipeline in preparing resource reports for FERC and other NEPA documentation in support of new natural gas pipeline, including devising strategy to obtain approval for crossing federal lands, including the Appalachian Trail.
- Assisted commercial and solar developers in obtaining no impact determinations for numerous projects in North Carolina as part of state's mini-NEPA process.
- Prepared comments on draft Environmental Impact Statements for airport expansion projects, reallocation of federally-owned reservoirs, proposed interbasin transfers of surface waters, and

interstate linear electric utility projects.

FIFRA

- Advised numerous clients regarding compliance of marketing materials with prohibitions on ?pesticidal claims.?
- Defended enforcement actions against manufacturers alleged to have made pesticidal claims in marketing materials and assisted in development of internal policies designed to prevent further occurrences.
- Advised clients holding original registrations for products regarding supplemental registration applications, data compensation claims and strategies for taking action regarding unregistered, ?knock-off? products for sale on e-commerce websites.

OSHA

- Counsel to Fortune 500 manufacturer in OSHA-led investigation following two fatalities during maintenance-related shutdown.
- Assisted nationwide retailer in developing corporate OSHA compliance program due to operations involving corrosive materials and airborne dust, including responding to employee, state and federal inquiries regarding workplace safety practices.

Education

- American University Washington College of Law (J.D.), 2001
cum laude
- University of Miami (B.S.), 1998
with honors

Professional Affiliations

- North Carolina Chamber of Commerce, Environmental Policy Committee ? Chair
- North Carolina Bar Association, Section on Natural Resources and Environment, Energy and Natural Resources Law - Chair (2016-2017); Vice Chair (2015-2016); Secretary (2014-2015); Treasurer (2013-2014); Section Council (2009-present)

Awards

- *Business North Carolina* magazine's "Legal Elite," (2012-2015); "Legal Elite Hall of Fame" (2016)
- *North Carolina Super Lawyers* magazine, "Rising Star," (2012)
- *Chambers, USA*>, "Up & Coming" attorney in Environment,(2012); Environment (2014-present)
- *The Best Lawyers in America*®, Environmental, Litigation, (2020-present)