

Partner — Environmental & Natural Resources

Brandon M. Tuck

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Brandon's practice focuses on environmental and natural resources law, with an emphasis on project development, enforcement defense, and environmental litigation.

Brandon advises clients on obtaining and defending permits and authorizations for a variety of energy, manufacturing, and development projects, including upstream and midstream oil and gas projects (both gas and liquid), energy export projects, transportation and marine terminal projects, commercial development and infrastructure, and single- and multi-family residential development. These approvals are from agencies such as the U.S. Army Corps of Engineers, the Federal Energy Regulatory Commission, the Bureau of Land Management, and the U.S. Fish and Wildlife Service, with underlying statutes including the National Environmental Policy Act (NEPA), Clean Water Act, Endangered Species Act (ESA), National Historic Preservation Act (NHPA), and other federal and state natural resource statutes.

Before law school, Brandon worked in natural resource planning for the U.S. Bureau of Reclamation in the Department of the Interior, where he focused on water resource management to support hydropower generation and irrigation projects. He authored NEPA and ESA documents integral to new projects, as well as ongoing operations of existing projects. Brandon also completed a multi-year detail as an interagency coordinator for four federal defendant agencies in ESA litigation over the effects on endangered salmon from hydropower operations and reservoir management in the Columbia and Snake Rivers in Oregon, Washington, Idaho, and Montana.

Additionally, Brandon is fluent in American Sign Language (ASL), has been a certified professional sign language interpreter for over twenty-five years, and is active in the deaf community.

Project Development, Permitting, and Related Litigation

- Advises on environmental aspects of preparing, filing, and prosecuting applications at the Federal Energy Regulatory Commission involving new and expansion projects for major interstate natural gas pipelines and import/export facilities, including

compliance with the National Environmental Policy Act, the Clean Water Act, and the Endangered Species Act

- Represents multiple midstream companies and various investing interests with interstate and intrastate natural gas, crude oil, and other pipeline development projects in states such as Texas, Oklahoma, Louisiana, North Dakota, Ohio, Pennsylvania, West Virginia, and Wyoming, including completing required species and cultural resource consultations and obtaining permits from numerous state and federal agencies, and resolving issues arising under statutes such as the Clean Water Act, National Historic Preservation Act, Endangered Species Act, and National Environmental Policy Act
- Advises various energy, transportation, and industrial companies on development strategies and obtaining authorizations from multiple districts of the U.S. Army Corps of Engineers, including jurisdictional determinations, individual permits and nationwide permit verifications under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, Section 408 reviews under Section 14 of the Rivers and Harbors Act, and required NEPA, ESA, and NHPA reviews and consultations
- Successfully defended a client's Clean Water Act Section 404 and Rivers and Harbors Act Section 10 permit, issued by the U.S. Army Corps of Engineers, against NEPA and Clean Water Act challenges brought to stop dock expansion at an existing Gulf Coast marine terminal
- Represented a marine terminal operator in resolving litigation brought by a neighboring submerged lands owner under novel theories of trespass to enjoin dredging and dredge material placement activities
- Represented an energy company in defeating landowner and environmental challenges in federal court to construction of a pipeline under a U.S. Army Corps of Engineers nationwide permit
- Represented national trade group as amicus in federal district court litigation challenging validity of U.S. Army Corps of Engineers' nationwide permit program for energy pipeline infrastructure
- Represented the developer of a west coast liquefaction facility and pipeline on federal environmental permitting matters, including permitting under the Clean Water Act and the Rivers and Harbors Act (i.e., Section 404/10 and Section 408 authorizations), reviews under the National Environmental Policy Act, and consultations under the Endangered Species Act and the National Historic Preservation Act
- Represented client in obtaining presidential permit from the Federal Energy Regulatory Commission for a cross-border gas pipeline, and assisted in securing various federal authorizations from (including the U.S. Army Corps of Engineers and Mexico International Boundary and Water Commission) and completing required consultations (including Endangered Species Act section 7 consultation)
- Represented the developer of an LNG terminal in Pennsylvania to export LNG by truck and rail on environmental permitting and natural resources matter
- Represented LNG company on environmental and natural resource permitting issues associated with the development of facilities to enable power generation units at Puerto Rico to utilize natural gas
- Assisted in successfully defending client against an appellate challenge to a U.S. Fish and Wildlife Service biological opinion issued for a proposed LNG terminal and supply pipeline
- Assisted in successfully obtaining ripeness dismissal of an appellate challenge to a Clean Water Act permit issued by the U.S. Army Corps of Engineers for a proposed LNG terminal and supply pipeline
- Represented a residential home developer in a citizen suit involving allegations of wetlands destruction without a permit from the U.S. Army Corps of Engineers under the Clean Water Act

- Advises multiple energy, commercial, and residential developers negotiating the purchase of credits from mitigation banks to address impacts to streams, wetlands, and protected species

Environmental Enforcement Defense

- Represented a commercial developer in successfully resolving enforcement brought by the U.S. Army Corps of Engineers over alleged wetland fill in violation of Section 404 of the Clean Water Act, enabling development to proceed without penalty
- Represented a residential developer in resolving an enforcement action brought by the Environmental Protection Agency alleging unauthorized filling of wetlands, resulting in an agreed order with no penalties and no additional obligations beyond the measures the company had already taken
- Defended several national midstream oil and gas affiliate companies from suspension actions brought by the Environmental Protection Agency's Suspension and Debarment Division arising from a pipeline spill of crude oil, resulting in termination of the suspension
- Defended a major chemical manufacturing company and affiliate from suspension and proposed debarment actions brought by the Environmental Protection Agency's Suspension and Debarment Division arising from an alleged release of ammonia, obtaining a favorable result for the client
- Assisted in defending an energy company from federal criminal enforcement under the Clean Water Act relating to an explosion at an offshore facility in the Gulf of Mexico
- Defended a meat packing operation from judicial and administrative enforcement under state law stemming from wastewater discharge issues
- Defended a meat packing operation from suspension and debarment actions brought by the Environmental Protection Agency's Suspension and Debarment Division for wastewater discharge issues, resulting in no suspension or debarment action
- Assisted in defending small businesses and small business owners charged with water pollution and hazardous waste disposal violations
- Assisted in counseling a major oil company regarding a federal investigation relating to refinery emissions, including managing the collection, review, and production of documents, and preparing witnesses for depositions

Other Litigation

- Represented a real estate developer in cost-recovery litigation involving allegations of soil contamination from historical asbestos manufacturing facility
- Represented a bank in arbitration against an environmental consulting firm regarding remediation of chlorinated solvents at an industrial facility
- Managed collection, review, and production of documents, and assisted in drafting discovery responses, and preparing corporate representatives and expert witnesses for depositions, for a major mining company in a civil suit involving claims for nuisance and property damages arising out of the historical operations of a metal smelting facility
- Assisted with witness deposition preparation activities for a major oil company in a civil suit involving claims of lost royalties resulting from alleged improper pipeline maintenance and pipeline releases

Regulatory Advocacy

- Prepared detailed comments for an oil and gas midstream company's use in Council for Environmental Quality rulemaking regarding analysis of greenhouse gas emissions and climate change effects under NEPA
- Prepare multiple sets of detailed comments for a midstream gas company's use in Federal Energy Regulatory Commission dockets regarding its Certificate Policy Statement and Greenhouse Gas Policy Statement
- Prepared detailed comments for an energy company on environmental justice issues for use in the Federal Energy Regulatory Commission docket regarding its Greenhouse Gas Policy Statement
- Prepare detailed comments for an energy trade association's use in U.S. Army Corps of Engineers rulemaking for the reissuance of Nationwide Permit 12
- Prepared detailed comments for a national electric utility trade association's use in the Rural Utilities Service's rulemaking regarding agency procedures to implement NEPA

Transactions & Counseling

- Advises energy, industrial, and commercial clients on environmental matters relating to acquisitions, divestitures, financing, equity and debt offerings, and development projects; advises clients on environmental provisions in transaction agreements, and leads environmental due diligence reviews and evaluations
- Acted as environmental counsel on several strategic land and pipeline acquisitions supporting a multinational energy logistics company's development of midstream and downstream assets in the Eagle Ford Shale
- Assisted in counseling Riverstone Holdings on environmental matters in connection with its acquisition of a refinery, terminal, and related railcar fleet in the Pacific Northwest
- Assisted in representing BP on environmental aspects of its \$2.4 billion sale of its Texas City refinery and a portion of its retail and logistics network in the Southeast United States to Marathon Petroleum

Credentials

Education

- University of Pennsylvania, J.D. *cum laude*, 2010 (Comments Editor, *University of Pennsylvania Law Review*; Certificate in Environmental Policy from the University of Pennsylvania's Institute of Environmental Studies)
- Boise State University, B.A. *summa cum laude*, 1999

Professional Background

Vinson&Elkins

- Natural resources technical writer and collateral-duty project manager, Pacific Northwest Region of the Bureau of Reclamation, U.S. Department of the Interior, 1998–2007
- Certified American Sign Language Interpreter (CI in 1998; CT in 1999; NIC in 2005): Registry of Interpreters for the Deaf

Recognition

- Texas Civil Rights Project, Kristi Couvillon Pro Bono Award, 2013'
- Fellow, Texas Bar Foundation, 2019
- *Legal 500 U.S.*, Environment: Litigation, 2020, 2022, and 2023; Environment: Regulatory, 2020, 2022, and 2023

Activities

- Co-Chair: Texas Wetlands Conference, 2015–present
- Board Member: Bayou Land Conservancy, 2016–2022
- Board Member: Houston Bar Association Environmental Law Section, 2019–2021
- Vice Chair: North Houston Association Environmental Committee, 2015 and 2016
- Vice Chair: State Bar of Texas Disability Issues Committee, 2015 and 2016

Admitted to Practice

- Texas
- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Eastern District of Texas

Spoken Languages

- American Sign Language (fluent)

News & Insights

[The New NEPA Regulations: What You Need to Know About the “Significant Effects” the Final Phase 2 Rule Could Have on Permitting and Infrastructure Project](#)

Insight • May 30, 2024 • **V&E Environmental Update**
Environmental • Energy Transition

[DOE Issues Final Rule on Coordination of Federal Authorizations for Electric Transmission Facilities](#)

Insight • May 6, 2024 • **V&E Energy Update**
Environmental

[Enbridge to Enter into JV Connecting Permian Basin Natural Gas Supply to Growing LNG and USGC Demand](#)

Deals & Cases • March 27, 2024

[Stonepeak to Acquire 50% Interest in Dominion Energy's Coastal Virginia Offshore Wind Project](#)

Deals & Cases • February 22, 2024

[Energy Transition](#)

[U.S. Fish and Wildlife Service Streamlines Bald and Golden Eagle Protection Act Permitting for Wind Energy and Power Line Projects](#)

Insight • February 14, 2024 • **V&E Environmental Update**

[Environmental](#)

[8 Rivers Announces Cormorant Clean Energy Project, the First Commercial Deployment of 8RH2 Ultra-Low Carbon Hydrogen Technology](#)

Deals & Cases • January 10, 2024

[Vinson & Elkins Announces 2024 Class of New Partners and Counsel](#)

Press Release • November 29, 2023

[DOE Proposes New and Modified NEPA Categorical Exclusions for Certain Storage, Transmission and Solar Projects](#)

Insight • November 22, 2023 • **V&E Energy Update**

[Energy Transition](#) • [Environmental](#)

[Questions Remain After EPA and the Army Corps Update the "Waters of the United States" Definition Following *Sackett v. EPA*](#)

Insight • September 6, 2023 • **V&E Environmental Update**

[Environmental](#)

[DOE Proposed Rule "Coordination of Federal Authorizations for Electric Transmission Facilities"](#)

Insight • August 16, 2023 • **V&E Energy Update**

[Environmental](#)

[CEQ's Proposed NEPA Phase 2 Rule Turns Procedure Into Substance and Could Have "Significant Effects" on Permitting and Infrastructure Projects](#)

Insight • August 1, 2023

[Environmental](#)

[TC Energy Partners with Global Infrastructure Partners Through \\$5.2B Sale of a 40% Equity Interest in Columbia Gas and Columbia Gulf](#)

Deals & Cases • July 24, 2023

[The Legal 500 US 2023 \(Legalease Ltd.\) Recognizes Vinson & Elkins in 45 Practice Categories, 133 Lawyers Recommended](#)

Rankings & Awards • June 12, 2023

[President Biden Signs Modest Permitting Reforms Into Law with the Debt Ceiling Bill](#)

Insight • June 7, 2023 • **V&E Energy Infrastructure Update**

[Environmental](#)

[Family Office-Led Private Consortium Acquires PureWest](#)

Deals & Cases • June 1, 2023

[Sackett v. EPA: The Supreme Court Clarifies Clean Water Act Jurisdiction](#)

Insight • May 30, 2023

[Environmental](#)

[Enbridge Inc. Acquires Tres Palacios Holdings LLC for \\$335 Million](#)

Deals & Cases • March 2, 2023

[Environmental Justice 2022 Year-End Review](#)

Insight • February 1, 2023

[Environmental](#)

[CEQ Releases New Guidance for Assessing Greenhouse Gas Emissions and Climate Change under NEPA](#)

Insight • January 18, 2023

[Environmental](#)

[Something Old or Something New?: Navigating the Biden Administration's Latest Move on Defining "Waters of the United States"](#)

Insight • January 10, 2023

[Environmental](#)

[Five Things to Know About the New Federal Environmental Justice Index and Cumulative Impacts](#)

Insight • September 1, 2022

[Environmental](#)

[Recent Developments in U.S. Offshore Wind](#)

Event Recap • August 16, 2022

[Energy Transition](#) • [Inflation Reduction Act](#)

[What the Inflation Reduction Act Would Do, and Not Do, to Support Continued Offshore Wind Development](#)

Insight • August 1, 2022 • **V&E Energy Update**

[Energy Transition](#) • [Inflation Reduction Act](#)

[Three Things to Watch in Development of U.S. Offshore Wind](#)

Insight • June 15, 2022

[Energy Transition](#) • [Environmental](#)

[The Legal 500 US 2022 \(Legalease Ltd.\) Recognizes Vinson & Elkins in 46 Practice Categories, 134 Lawyers Recommended](#)

Rankings & Awards • June 16, 2022

[ARM Energy Holdings Acquires Monument Pipeline LP from NextEra Energy Partners](#)

Deals & Cases • April 4, 2022

[Nationwide Permit 12 Update: Permit that Allows for Expedited Approval for Certain Oil and Natural Gas Pipeline Activities Undergoing Additional Review](#)

Insight • April 1, 2022 • **V&E Environmental Update**

[Environmental](#)

[New York Bight Launches Offshore Wind Race in U.S.](#)

Insight • March 18, 2022 • **Published by Renewable Energy World**

[Energy Transition](#)

[Biden Administration Announces New Initiatives to Lower Emissions and Support a Net-Zero Economy – What this Means for CCUS](#)

Insight • February 17, 2022 • **V&E Environmental Update**

[Energy Transition](#) • [Environmental](#)

[Energy Transfer to Acquire Enable Midstream in \\$7B All-Equity Transaction](#)

Deals & Cases • February 17, 2021

Additional Insights

- "Ethical Dilemmas Addressed in the Wetlands Context," Presentation at the 33rd Annual Texas Wetlands Conference, Galveston, TX, April 20, 2023

- “Enforcing the Clean Water Act,” Presentation at the 33rd Annual Texas Wetlands Conference, Galveston, TX, April 20, 2023
- “Waters of the United States: Rulemaking and Supreme Court Redux,” Presentation at the North Houston Association, Houston, TX, February 2, 2023
- “Ethics Pitfalls for the Unwary: A Facilitated Discussion on Ethical Decision-Making for Wetlands Practitioners,” Presentation at the 32nd annual Texas Wetlands Conference, Houston, TX, January 21, 2022
- “The Pendulum Swings Back: How NEPA’s Regulations Are Changing, and What It Means for You,” Presentation at the 32nd annual Texas Wetlands Conference, Houston, TX, January 20, 2022
- “Is Your Investment What You Think It Is? Understanding Environmental Risk and Opportunities for Project Development in the Biden Administration,” Presentation at the Association of Corporate Counsel, Dallas, TX, April 29, 2021
- “Ethical Conflicts for Wetlands Professionals,” Presentation at the 31st annual Texas Wetlands Conference, Houston, TX, January 28, 2021
- “Legal Hang-ups and Controversies in Clean Water Act Compensatory Mitigation,” Presentation at the 31st annual Texas Wetlands Conference, Houston, TX, January 28, 2021
- “Potential Pitfalls in Section 404 Permitting: Lessons Learned from Case Law,” Presentation at the 30th annual Texas Wetlands Conference, Houston, TX, February 27, 2020
- “Navigating Obstacles when Developing Natural Gas Pipeline Projects,” Presentation at the Southern Gas Association Conference, San Antonio, TX, July 16, 2019
- “Water Quality Certification under Section 401 of the Clean Water Act: Issued in Federalism,” Presentation at the 29th Annual Texas Wetlands Conference, Houston, TX, March 28, 2019
- “Update on Recent Regulatory and Permitting Developments and Impacts of Trump Administration on Projects,” Presentation at the Kinetic 2018 Environmental Permitting for the Energy Sector workshop, Houston, TX, October 24, 2018
- “Finding Your Purpose: Demonstrating Purpose and Need in Federal Permitting,” Presentation at the 28th Texas Wetlands Conference, Houston, TX, March 5, 2018
- “BSEE Broadens its View: Pipeline ROW Grant Assignments May Now Include Multiple Grant Holders and Reference the Identification of a Single ROW Pipeline Operator,” *V&E Environmental Law Update E-communication*, September 8, 2017 (co-author)
- “Contemporary Issues in Project Permitting: Post-Hawkes Jurisdictional Determinations and the New Nationwide Permits,” 27th Texas Wetlands Conference, Houston, TX, January 27, 2017 (speaker)
- “Trump Administration Acts to Advance Infrastructure Projects and Pipeline Development,” *V&E Environmental Law Update E-communication*, January 26, 2017 (co-author)
- “BOEM Issues NTL Imposing More Stringent Financial Assurance Requirements on OCS Lessees for Decommissioning Liabilities,” *V&E Environmental Law Update E-communication*, July 20, 2016 (co-author)
- “The Future of Clean Water Act Enforcement and the Jurisdictional Determination Program in the Wake of U.S. Army Corps of Engineers v. Hawkes Co., Inc.,” *V&E Environmental Law Update E-communication*, June 7, 2016 (co-author)

- “Pre-Enforcement Review of Jurisdictional Determinations: A Shifting Landscape,” Presentation at the 26th Texas Wetlands Conference, Houston, TX, January 29, 2016
- “[The Corps of Engineers’ Nationwide Permitting Program: Lessons from Permitting Linear Projects.](#)” Presentation at the 25th Texas Wetlands Conference, Austin, Texas, January 30, 2015
- “An Achievement — And A Warning — For Corps Of Engineers,” *Law360*, March 11, 2014 (co-author)
- “V&E Climate Change Report,” *Special Issue: EPA’s Proposed Greenhouse Gas NSPS*, January 2014 – Issue 21 (co-author)
- “[Overcoming NEPA Challenges to Fracking Rules in the Delaware River Basin](#),” Bloomberg BNA *Daily Environment Report*, 2012 (co-author)
- “[A Primer on the Section 404 Permitting Process](#),” Lecture to Port Engineering and Permitting Personnel, Port of Houston, Houston, Texas, March 2012
- “Preserving Facts, Form, and Function when a Deaf Witness with Minimal Language Skills Testifies in Court,” 158 *University of Pennsylvania Law Review* 905, 2010

Capabilities

- [Emergency Response & Crisis Management](#)
- [Environmental Enforcement Defense](#)
- [Environmental Justice](#)
- [Environmental Litigation](#)
- [Environmental, Social and Governance \(ESG\)](#)
- [Project Development](#)
- [Water](#)