

# James A. Tupper, Jr.

PARTNER

James Tupper focuses his practice on environmental law, with an emphasis on water quality, water resources, and shoreline development. James has successfully represented business associations and local governments in resolving complex disputes involving stormwater regulation and water resources policy. He frequently represents clients in matters before the Environmental Hearings Office, including shoreline management, water rights, and NPDES permit appeals. He also advises clients regarding hazardous waste cleanup issues in real estate development and financing. James served two terms on the Washington Pollution Control Hearings Board and Shorelines Hearings Board.

Since 2006, James has been included on each year's Washington Super Lawyers® list. James is recognized in *The Best Lawyers in America*® 2019 for work in environmental law, land use and zoning law, environmental litigation, land use and zoning litigation, and natural resources law. James was named the Best Lawyers® 2015 Environmental Litigation "Lawyer of the Year" in Seattle.



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(206) 493-2317

## Representative Matters

- | **Water Quality Human Health Criteria.** Provides counsel to private company and business association on regulatory development of human health water quality criteria in the state of Washington. Represented coalition of business associations on petition for rulemaking to U.S. E.P.A. on federal human health water quality criteria.
- | **Water Quality Variances.** Represents clients on water quality variance applications to address compliance with PCB water quality criteria.
- | **Industrial Stormwater General Permit.** Advises clients on permit compliance including implementation of corrective actions. Represented a regional manufacturer on appeal of the 2010 Industrial Stormwater General Permit and represented business associations on appeal of the 2002 Industrial Stormwater General Permit.
- | **Citizen Suit Litigation.** Represents public and private entities in responding to notices of intent to sue and defending citizen suits brought under the Clean Water Act and Resource Conservation and Recovery Act. Clients have included municipalities, wood processing facilities, transportation facilities, boatyards, metal fabricators, auto recyclers and food processors.
- | **Boatyard Stormwater General Permit.** Represented trade association in administrative appeal of the 2005 Boatyard Stormwater General Permit before the Pollution Control Hearings Board. Successfully negotiated settlement of appeal from decision of the PCHB.
- | **Broadcast Facility Permitting.** Represented radio station owner in obtaining land use and shoreline permit for new AM radio broadcast towers, and successfully defended permits on appeal in superior court.
- | **Construction Stormwater General Permit.** Assisted construction industry clients in development of 2005 Construction Stormwater General Permit. Successfully defended permit before the PCHB and on appeal to superior court.
- | **Confined Animal Feeding Operation Stormwater General Permit.** Represented dairy and cattle trade associations in defense of 2006 Confined Animal Feeding Operation Stormwater General Permit. The permit was affirmed in all respects by the PCHB in 2007.
- | **Sand and Gravel Stormwater General Permit.** Represented sand and gravel trade association in appeal and defense of 2006 general permit, resolving case through successful settlement negotiation.

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- | **Spokane River TMDL.** Counsel for an Idaho local government and an industrial discharger on development of the Spokane River dissolved oxygen Total Maximum Daily Load water quality improvement plan and NPDES permits.
- | **General and Individual NPDES Permitting.** Counsel to a wide variety of private companies, trade associations, and local governments on permit development and compliance issues.
- | **Groundwater Quality Protection.** Counsel for water district in on-going efforts to control stormwater runoff and protect a drinking water aquifer, including administrative appeals before the PCHB.
- | **Water Right Permitting.** Represents private developers in defense of new water appropriation permits and direct streamflow augmentation mitigation programs. Represented Washington State University in defense of water right changes to enable consolidation of Pullman campus water system.
- | **Solid Waste Management Facilities.** Advises clients on land use permitting and solid waste management regulatory requirements for recycling and sediment remediation projects.
- | **Hazardous Waste Management.** Advises clients on hazardous waste management issues and resolution of enforcement and penalty actions.

## Professional Activities

Member, Washington State Bar Association, Environmental & Land Use Law Section  
Member, Federal Bar Association, Western District of Washington  
Member, King County Bar Association Bench-Bar Conference Committee  
Member, Editorial Board, Environmental & Land Use Law Newsletter, Washington State Bar Association  
Member, King County Bar Association Volunteer Legal Services Committee  
Participant, Washington Department of Ecology Lender Liability Working Group  
Member, Washington Department of Ecology Sediment Management Standards Implementation Committee  
Member, Washington Department of Ecology, Model Toxics Control Act External Work Group

## Prior Experience

Attorney, Stoel Rives LLP, Seattle (2001–2003)  
Member, Pollution Control Hearings Board and Shorelines Hearings Board (1994–2001)  
Senior Assistant City Attorney, City of Seattle (1991–1994)  
Associate, Davis Wright Tremaine, Seattle (1985–1991)  
Intern, National Veterans Law Center/Vietnam Veterans of America Legal Services, Washington, D.C. (1983–1985)

## Education

J.D., Washington College of Law, American University, 1985 Dean's Scholar  
B.A., Reed College, 1981

## Admissions

Washington State Bar Association  
Supreme Court of the State of Washington  
U.S. District Court for the Western District of Washington  
U.S. Court of Appeals for the Ninth Circuit

## Community Activities

Vice President, History Link, [www.historylink.org](http://www.historylink.org). Treasurer, Ailanga School Project, [www.ailanga.com](http://www.ailanga.com), a nonprofit formed to support education and environmental health in Tanzania.