

# Brian Ferrasci-O'Malley

Partner | Seattle

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Brian Ferrasci-O'Malley is an environmental and natural resources attorney whose practice spans both transactional work and litigation. Based in Seattle, he regularly advises clients across the United States on energy development and federal wildlife law issues, including matters under the Endangered Species Act (ESA), the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA), the Clean Water Act (CWA), and the National Environmental Policy Act (NEPA).

Companies with contaminated properties look to Brian to help litigate cases and manage risk. He represents clients in state and federal litigation, as well as in complex, multi-party allocation processes. Brian has particular experience with natural resource damages (NRD) matters under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Oil Pollution Act (OPA). Prior to joining Nossaman, Brian was an attorney with the U.S. Department of the Interior's Office of the Solicitor, where he managed a nationwide docket of NRD cases under CERCLA and OPA. Clients rely on the knowledge Brian has gained working on project-specific and policy-level NRD matters to help solve their own difficult NRD issues.

Municipalities and other entities with complicated regulatory matters benefit from Brian's years of experience coordinating with numerous federal, state, and tribal entities. Brian also draws on his training as a scientist and environmental consultant to help clients achieve their goals. He holds undergraduate and graduate scientific degrees and, prior to practicing law, he worked as an environmental consultant directing habitat restoration and community-based conservation projects across Washington State and Montana. Brian began his legal career as an associate at a boutique environmental law firm in Seattle.

## EXPERIENCE

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**Natural Resource Damages Claims.** Provide counsel to government and private party clients on the full lifecycle of NRD cases, from evaluating the strength of potential claims, to negotiating the parameters of cooperative assessments, to designing restoration projects that meet NEPA and CERCLA or OPA requirements. Experience with a wide variety of contaminants of concern and affected resources. Knowledge of third-party credit banking mechanisms for resolving NRD liability.

**Renewable Energy.** Assess and review federal wildlife issues for potential wind and solar energy project acquisitions on behalf of national utilities and private investors. Prepare permitting opinions and transactional support for renewable energy developers on federal, state, and local natural resources and environmental issues.

**Federal Wildlife Policy.** Provide policy-level and project-specific advice to a national coalition of utilities and renewable energy companies on federal wildlife laws and policies affecting construction and operation of projects across the United States.

**Cost Recovery and Cost Allocation.** Lead associate on legal teams representing private parties in cost recovery actions, mediations, and multi-party cost allocation matters at CERCLA and MTCA remediation sites.

**Contaminated Property Sites.** Advise clients involved in contaminated property cleanups and transactions across the Pacific Northwest.

## INSIGHTS

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### SPEAKING ENGAGEMENTS

Program Co-Chair, "2021 Environmental and Land Use Law Section Midyear Meeting and Conference," Washington State Bar Association Continuing Legal Education, 05.07.2021

Speaker, "Shaping Government & Influencing Policy," University of Montana's Environmental Studies Program (EVST) Alumni Panel, 10.14.2020

Speaker, "Advance Restoration over Damages, Early Restoration and Restoration Banking Opportunities," Ad-Hoc Industry Natural Resource Management Group's Multi-Stakeholder State of the Practice Meeting, Washington, DC, 10.17.2019

Speaker, "Natural Resource Damages: NRD and the Future Development of Seattle," King County Bar Association Environmental & Land Use Section's Annual Half-Day CLE Program, Seattle, WA, 04.04.2019

Speaker, "Sink or Swim: Legal and Regulatory Developments That Could Impact Your Business in 2019," National Fisheries Institute's 2019 Global Seafood Market Conference, Coronado, CA, 01.17.2019

Panelist, "Hazardous Waste Case/Site Review: Extracting Lessons Learned and Elements of Successful Scientific and Legal Practices," 2018 Natural Resources Symposium, Washington, DC, 09.25.2018

### PUBLICATIONS

Co-Author, "Department of the Interior Seeking Comments on NRDAR Type A Rule," *Nossaman eAlert*, 01.23.2023

Co-Author, "Will the Superfund Tax Return via the Bipartisan Infrastructure Bill?," *American Bar Association*, 08.03.2021

Contributor, "Another Take on "Take": The Section 9 Prohibition," *Endangered Species Act: Law, Policy and Perspectives, 3rd Edition*, 06.08.2021

Co-Author, "Currently Evolving Natural Resource Risks For Renewable Energy Development," *Financier Worldwide*, 12.01.2020

Podcast Co-Host, "What Happens When the Fish Move? A Look at the Practical and Legal Impacts of Climate Change on American Fisheries," *Digging Into Land Use Law*, 11.28.2020

Co-Author, "Interior Issues Operating Principle for Natural Resource Damage Assessment and Restoration Program," *Nossaman eAlert*, 06.01.2020

Co-Author, "Federal Court Overturns Nationwide Permit 12, Throws Project Development into Flux," *Nossaman eAlert*, 04.20.2020

Co-Author, "Agency Deference Survives – For Now – in Recent Supreme Court Opinion," *Nossaman eAlert*, 06.27.2019

Co-Author, "NRD Consent Decree Shows Innovation Alive & Well at DOI," *Nossaman eAlert*, 06.06.2019

Co-Author, "Department of the Interior Closes Comment Period on NRDAR Regulations," *Nossaman eAlert*, 11.01.2018

Co-Author, "Chapter 11.2 – Things You Need to Know: Environmental Audit Program and Endangered Species Act Scope of Review for Pipelines," *State Bar of Texas 36th Annual Advanced Oil, Gas and Energy Resources Law Course*, 09.2018

Co-Author, "Interior Issues Advanced Notice of Proposed Rulemaking on NRDAR Regulations," *Nossaman eAlert*, 08.29.2018

Author, "Inside *CTS Corp. V. Waldburger*," *Law360*, 04.30.2014

## HONORS & RECOGNITIONS

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Included in *Best Lawyers: Ones To Watch* for Environmental Law, Litigation - Natural Resources Law, and Energy Law, 2021-2023

Listed, *The Legal 500 United States*, Industry Focus - Energy - Renewable/Alternative Power, 2020-2022

Listed, *The Legal 500 United States*, Industry Focus - Environment - Litigation, 2020

Selected to the Environmental Law Institute's Emerging Leaders Initiative (ELI-ELI), 2020

Doris Duke Conservation Fellow, 2005

## COMMUNITY & PROFESSIONAL

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American Bar Association (ABA), Member

ABA – Environment, Energy, and Resources Section: Superfund and Natural Resource Damages Litigation Committee, Vice-Chair

Washington State Bar Association, Member

WSBA – 2021 Environmental and Land Use Law Section Midyear Conference, Co-Chair

King County Bar Association, Member

## PRACTICES

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Environment & Land Use

Environmental Litigation

Contamination & Natural Resource Damages

Endangered Species & Wildlife Law

Climate Change & Resiliency

CEQA & NEPA

Air Quality

Water Quality

## INDUSTRIES

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Energy & Utilities

Renewable & Alternative Energy

## EDUCATION

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University of Washington School of Law, J.D., 2013

University of Montana, M.S., 2008

Boston College, B.S., 2004

## ADMISSIONS

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Washington

U.S. District Court, Eastern District of Washington

U.S. District Court, Western District of Washington

U.S. Court of Appeals, Ninth Circuit

U.S. Court of Federal Claims