

Natural Resources and Endangered Species Practice

Fennemore Craig has a long history in natural resources and environmental law. Eighteen of the firm's attorneys work primarily in the natural resources and environmental area and many of them actively serve on boards, committees and organizations dedicated to environmental, natural resources, and water rule-making, policy development, and legislation. Related environmental and natural resources experience in other practice areas includes tax, corporate law, commercial and white collar criminal litigation, real estate, government relations, workman's compensation, and personal injury and business torts litigation.

Our environment and natural resources attorneys offer a full range of services to clients in:

- Agribusiness
- Energy and petroleum
- Finance
- Life Sciences
- Manufacturing
- Mining
- Real estate development
- Technology
- Transportation
- Utilities and communications

Our legal services encompass environmental and natural resources compliance, permitting, litigation, legislation and administrative action including administrative rulemaking. Our focus is to help clients identify environmental, natural resource, water and land use issues early in a transaction, and work with them to find innovative solutions.

Administrative

Our attorneys routinely prepare appeals and make presentations on behalf of clients before state and federal administrative bodies and tribunals charged with acting upon permit requests, water rights issues, contamination issues, underground storage tank disputes, and many other environmental, water and natural resource matters.

Endangered Species

Fennemore Craig attorneys have substantial experience with the federal Endangered Species Act and related laws and regulatory requirements. The firm represents clients in connection with administrative and court proceedings concerning the listing of species, the designation of critical habitat, Section 7 consultation and prohibitions on the "taking" of species. The firm has successfully challenged species' listings, critical habitat designations and biological opinions, and defends clients in lawsuits based on alleged violations of the ESA, as well as NEPA, the Clean Water Act, and other statutes and regulatory programs affecting land and resource use.

Environment

Fennemore Craig provides due diligence advice and counseling, and real property and environmental impact assessments for business. We offer environmental compliance and permit counseling for industry and business. The firm routinely works in the areas of:

- Air quality
- Endangered species
- Federal and State Superfund laws
- Groundwater quality protection
- Hazardous and solid waste management
- Historic preservation and archeology
- Native plant protection
- Storm water and wastewater management
- Underground storage tanks (UST)
- Wetlands regulation
- Pesticide regulation

We assist clients to obtain and comply with air permits for major and minor sources, surface (NPDES) and groundwater quality (aquifer protection) permits (APP), and Section 404 permits. We also provide advice regarding management of

storm water, wastewater, and solid and hazardous waste, the development and implementation of pollution prevention plans for industry, environmental audits and site assessments, OSHA and EPCRA compliance, coordination of remedial actions and cost recovery efforts, and a multitude of other environmental compliance issues.

Legislation

The firm represents clients before the Arizona Legislature on a wide range of environmental and natural resource matters, including water and air quality, solid and hazardous waste, water rights, tax policy and underground storage tank issues. Our attorneys have helped draft and lobby most of Arizona's major environmental laws, including the Environmental Quality Act of 1986, the State's Air Quality Act, Underground Storage Tank Act, Water Quality Assurance Revolving Fund (State Superfund), the Groundwater Code and the Central Arizona Groundwater Replenishment Act.

Litigation

Fennemore Craig's civil and criminal litigation experience includes all aspects of environmental and natural resources claims. We represent clients in connection with state and federal and Superfund matters; pursuing and defending private cost recovery actions under state and federal statutes and common law; defending investigations and civil enforcement and criminal prosecutions by state, local and federal prosecuting agencies under the Clean Water Act, Resource Conservation and Recovery Act and all other federal and state statutes; and water rights claims.

Public Lands

Fennemore Craig provides a wide range of representation concerning natural resources issues on public and Tribal lands. This includes trials and appeals in federal and state courts, proceedings before various administrative agencies, permitting, and commercial transactions.

Our attorneys represent natural resources companies, mining companies, ranchers, developers and other public land users in federal court litigation on a full range of natural resources issues. Our experience includes regularly defending challenges to projects and activities on federal lands involving the National Environmental Policy Act, the National Forest Management Act and the Federal Land Management and Policy Act, as well as other federal and state statutes affecting the use and development of public lands. In addition, we represent clients in administrative appeals and federal court proceedings relating to the issuance of permits and other regulatory matters affecting the development and use of natural resources. We are also experienced in negotiating contracts and water rights settlements with American Indian Tribes and government agencies.

In addition to litigation, we advise and assist clients on various permitting and transactional matters, rights-of way, grazing permits and other permits relating to the use and occupancy of public lands. The firm also assists clients in connection with rule-making proceedings and administrative appeals and contested cases relating to permits under federal and state land use statutes.

Rule-making and Policy Development

The firm regularly participates in and submits comments on behalf of clients in the public process on the formulation of national rules proposed by the Environmental Protection Agency, Bureau of Land Management, Fish and Wildlife Service, Forest Service and other federal agencies. The firm interacts frequently with the office of the Arizona Governor and its policy advisors, as well as the Arizona Department of Environmental Quality, the Arizona Department of Water Resources, the State Land Department, and other State agencies on the promulgation of rules as well as the development and implementation of policy.

Toxic Torts

Toxic tort litigation involves claims for personal injury and property damage arising out of exposure to a toxic substance. Our attorneys are experienced in representing clients in toxic tort matters, including claims for:

- Alleged pulmonary damage from air pollutants, methane gas migration
- Chemical damage to crops
- Groundwater contamination involving polychlorinated biphenyls, petrochemicals, trichloroethylene and other industrial solvents
- Property devaluation
- Personal injuries and medical monitoring resulting from exposure to various substances, including TCE and other volatile organic compounds
- Personal injury from exposure to pesticides and asbestos
- Toxic shock syndrome and cancerphobia
- Toxic mold

Fennemore Craig serves business clients in the context of workers' compensation claims for injury or disease from toxic substances, including arsenic, aluminum, asbestos, solvents, silica dust, acids and other chemicals. Additionally, the firm has experience defending drug manufacturers in cases involving adverse reactions allegedly attributable to prescription drugs. As a result of the firm's toxic tort experience, our attorneys have experience in medical, scientific and legal causation, and the identification, retention and presentation of qualified medical, toxicological and other appropriate expert witnesses.

Water Law

Fennemore Craig offers clients decades of experience in surface water, groundwater, water rights, water supply, river adjudications and litigation, and all types of water-related litigation. The firm also provides assistance with water resource planning and the interplay between utilization of water resources and the impact of various environmental laws. Our signal strength – in depth understanding of water rights and supplies and increasingly critical environmental restrictions affecting those rights and supplies – positions us to assist in addressing and resolving the most complex water issues facing the business world.

Water Permitting and Compliance

Our attorneys assist clients in formulating strategies to protect and utilize water rights. We negotiate and document numerous water rights conveyances, water service agreements and water infrastructure instruments. We frequently conduct due diligence in connection with transactions involving the acquisition of real property and water rights.

The firm advises clients on compliance with regulatory and permitting matters involving federal, state and local laws, rules and policies, including the assured water supply program, water conservation requirements, Central Arizona Project issues, and the environmental implications of exercising water rights.

Water Legislation and Regulation

Fennemore Craig has a long history of representing clients in drafting and negotiating water legislation that includes Arizona's landmark Groundwater Management Act and the legislation giving rise to the Central Arizona Groundwater Replenishment District. We regularly represent clients in rule-making and regulatory matters before state and federal agencies.

Water Litigation

The firm represents major claimants in river adjudications and water rights litigation, including the Gila River Adjudication and the Little Colorado River Adjudication. In addition to serving as trial counsel, our attorneys are involved settlement negotiations for these and other water controversies through agreements among both American Indian and non-Indian claimants. In addition, we represent clients in interstate stream litigation and related negotiations. We also have experience representing state governments in interstate water banking negotiations.

Water Rights and Supply

Fennemore Craig represents clients in water supply, water rights and development issues that include:

- Planning for the use and protection of water rights
- Conducting due diligence on water-related matters associated with purchase of raw land, subdivided land, and planned developments
- Drafting and negotiating purchase and sale contracts relating to water issues
- Analyzing title and survey matters concerning water
- Drafting and negotiating water-related agreements including line extension agreements, water supply wheeling agreements and development agreements between landowners, developers and municipal and private water providers
- Securing effluent for recreational, development and industrial uses
- Demonstrating an Assured and Adequate Water Supply under Arizona law, including obtaining Analyses, Designations, and Certificates of Assured Water Supply and Water Reports
- Providing counsel on water conservation requirements to municipal providers, developments, homeowner's associations, golf courses, and industrial interests
- Participating in the development of legislation, rulemaking and water-related policy at the state and regional level
- Representation in administrative law proceedings involving water resource, rights, and compliance matters.

Natural Resources and Endangered Species Practice Group

Robert D. Anderson, <i>Chair</i>	(602) 916-5455
Gregory L. Adams	(602) 916-5474
Scott K. Ames	(602) 916-5339
Jennifer N. Benoit	(602) 916-5409
Christopher L. Callahan	(602) 916-5310
Lauren J. Caster	(602) 916-5367
Susan E. Chetlin	(303) 291-3211
Jean M. Emery	(602) 916-5443
Phillip F. Fargotstein	(602) 916-5453
Margaret R. Gallogly	(602) 916-5468
Shilpa Hunter-Patel	(602) 916-5356
Norman D. James	(602) 916-5346
Robert J. Kramer	(602) 916-5464
Marc A. Marra	(602) 916-5450
Dawn Meidinger	(602) 916-5470
John M. Pearce	(602) 916-5376
Michael J. Phalen	(602) 916-5415
Jay L. Shapiro	(602) 916-5366
Cortland J. Silver	(602) 916-5361
Sarah A. Strunk	(602) 916-5327
Scott H. Thomas	(602) 916-5427
Ann Stewart, <i>Paralegal</i>	(602) 916-5714