CH&
CAIRNCROSS&HEMPELMANN
ATTORNEYS AT LAW

Duncan M. Greene

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Introduction

As a member of CH&'s Land Use group, Duncan advises private and public clients on complex land use, development, and real property matters.

With more than two decades of land use experience, Duncan helps landowners and project developers navigate high-stakes entitlement processes — securing planning and zoning changes, shoreline and wetlands permits, in-water construction approvals, and other regulatory authorizations — while managing risk and resolving issues that arise during project development. He has in-depth knowledge of local, state, and federal regulatory frameworks, including SEPA/NEPA, the Clean Water Act, the Washington Water Pollution Control Act, the Land Use Petition Act, the Growth Management Act, and local critical areas and shoreline regulations. He applies that knowledge to guide clients through the procedures, substantive requirements, and practical realities of the regulatory process. When land use disputes arise, he represents clients in administrative proceedings and in local, state, and federal courts, defending project approvals and responding to enforcement actions brought by agencies such as the Washington State Department of Ecology and the U.S. Environmental Protection Agency.

Duncan's practice also includes real property transactions — the purchase and sale of land and water rights, transfer of development rights, boundary line adjustments, leases, licenses, easements, and development agreements, among others. He has extensive experience with aquatic land leases and other authorizations from the Washington State Department of Natural Resources (DNR) for the use of state-owned aquatic lands. At the intersection of land use and real estate, his work includes project impact mitigation, mitigation banks, land conservation, and conservation easements. When real property litigation is necessary, Duncan defends his clients' property rights in litigation over boundary lines, easements, leases, and other real property matters. In particular, he represents clients in litigation to resolve disputes with local governments and state agencies like DNR over leases of government-owned land, and he has litigated disputes involving leases granted by DNR over state-owned aquatic lands and uplands.

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Experience & Results

- Assisted landowners and developers with a wide range of land use and real estate matters, including planning, zoning, permitting, and related litigation for mixed-use commercial projects, residential subdivisions and master planned developments, energy generation and transmission projects, linear and non-linear transportation projects, gravel mines, mitigation banks, and other natural resource projects.
- Represented landowners, developers, and local governments in appeals before city and county Hearing Examiners, the Shorelines Hearings Board, the Pollution Control Hearings Board, the Growth Management Hearings Board, and the courts.
- Counseled landowners, institutional investors and other clients on real estate matters involving the purchase and sale of land, water rights, and other real property rights, including due diligence and negotiating and drafting purchase and sale agreements, easements, development agreements, and other transactional documents.
- Represented landowners in litigation over easement disputes and boundary disputes, including assertions of adverse possession, prescriptive easements, mutual recognition and acquiescence, parol boundary agreement, and other boundary adjustment doctrines.
- Represented railroad in enforcement actions by the Washington State Department of Ecology and the Environmental Protection Agency
- Successfully defended ranchers against criminal investigation by the Environmental Protection Division of the Washington State Attorney General's Office
- Represented utilities and other public and private clients in permitting, environmental review, and related litigation over major energy projects, including wind power, solar power, hydropower, electric transmission, Liquified Natural Gas (LNG) export, and traditional oil and gas transmission projects.
- Represented sewer district in statutory proceedings, administrative appeals, and litigation over assumption and annexation issues
- Advised municipal water providers on local, state, and federal regulatory water quality issues
- Represented Washington cities and counties, and special purpose districts, in local planning and permitting processes and related litigation
- Counseled municipalities, water associations, water districts, and private landowners regarding issues pertaining to water rights and water infrastructure, including due diligence review of water rights; transactions involving water rights; analysis and drafting of regulations affecting water rights; and drafting of agreements regarding private water associations, shared wells, and water use.
- Advised public and private clients on land conservation matters, including drafting legislative reports for the Washington State Recreation and Conservation Office (RCO) on conservation easements and other land preservation mechanisms, acting as Special Assistant Attorney General to RCO in drafting a model farmland preservation easement and other conservation easement templates, and representing land trusts and other private landowners in matters involving conservation easements.

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Education

- Auburn University (B.A., *cum laude*, 1996)
- Seattle University School of Law (J.D., *cum laude*, 2005)
  - *Seattle University Law Review*, Associate Editor & Bylaws Committee Lead (2003-2004)

Admissions

- Washington
- US District Court, Western District of Washington
- US District Court, Eastern District of Washington
- US Bankruptcy Court, Western Washington
- US Court of Appeals, Ninth Circuit

Honors & Recognition

- Listed in *The Best Lawyers in America*® in Land Use & Zoning Law since 2018 - present
- Listed in *The Best Lawyers in America*® in Litigation - Land Use & Zoning since 2021 - present
- Listed in *The Best Lawyers in America*® in Real Estate Law since 2021 - present
- Named on the Washington Super Lawyers list by *Super Lawyers® Magazine* since 2018 - present
- Named on the Washington Rising Stars list by *Super Lawyers® Magazine* (2010-2015)

Professional & Community Involvement

- King County Bar Association
- Commercial Real Estate Development Association (CREDA)

Publications/Speaking Engagements

- Co-author, "EPA and Corps Navigate New Regulatory Definition of Waters of the United States," *The National Law Review* (November 25, 2025)
- Co-author, "Trump Administration Launches Comprehensive Review of Clean Water Act Definition for "Waters of the United States" (WOTUS)," *The National Law Review* (March 31, 2025)

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- Co-author, "Supreme Court Limits Clean Water Act Permit Requirements in San Francisco v. EPA," *The National Law Review* (March 10, 2025)
- Co-author, "UPDATED: Biden Administration Redefines 'Waters of the United States,' Expanding Regulation Under Clean Water Act," *The National Law Review* (November 8, 2023)
- Co-author, "U.S. Supreme Court's Sackett Decision Prompts Conforming WOTUS Rule," *The National Law Review* (September 13, 2023)
- Co-author, "U.S. Supreme Court Narrows WOTUS, Limiting Scope of Clean Water Act," *The National Law Review* (June 15, 2023)
- Co-author, "Shifting Baselines: New Guidance from Army Corps and NMFS on ESA Compliance for Work on Existing Structures," *The National Law Review* (January 19, 2022)
- Co-author, "Army Corps Finalizes 41 Nationwide Permits for Activities in Jurisdictional Waters and Wetlands," *The National Law Review* (January 13, 2022)
- Co-author, "EPA and Army Corps Announce Latest Update to Definition of 'Waters of the United States'," *The National Law Review* (November 29, 2021)
- Co-author, "Rough Waters Ahead, Once Again: A District Court Vacates the 2020 Navigable Waters Protection Rule as the EPA and Corps WOTUS Definition Rulemaking Continues," *The National Law Review* (September 2, 2021)
- Presenter, "Trial by Zoom: Using Zoom and Other Online Platforms in Administrative Proceedings, Trials, and Oral Arguments," Washington State Association of Municipal Attorneys, 2020 Fall Conference (October 14, 2020)
- Presenter, "Recent Developments in Defining WOTUS under the Clean Water Act," National Hydropower Association 2019 California Regional Meeting (December 9, 2019)
- Presenter, "Recent Developments in Defining WOTUS under the Clean Water Act," Alaska Resources Conference (November 21, 2019)
- Presenter, "Legal Update: Stormwater Management for Ports," Pacific Northwest Waterways Association, Annual Convention (October 10, 2019)
- Presenter, "Recent Water Quality Developments: CWA Sections 401 and 404," Tribal Water in the Pacific Northwest, Law Seminars International (September 19, 2019)
- Presenter, "Incorporating Climate Change Resilience, Mitigation, and Carbon Finance into Planning and Decision Making Processes," 2019 Northwest Land Camp (June 20, 2019)
- Presenter, "Scope of State Authority under CWA Section 401," Shoreline Development & Permitting in Washington State, The Seminar Group (June 6, 2019)
- Presenter, "Mitigation Banks, In-Lieu Fees, and Permittee Sponsored Mitigation - Opportunities and Challenges," Washington State Bar Association, Environmental and Land Use Section, 2019 Mid-Year Conference (May 6, 2019)

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- Co-presenter, "Non-User Statute," Washington State Association of Municipal Attorneys, 2019 Spring Conference (April 23, 2019)
- Presenter, "Private Stormwater Facilities: Inspection, Maintenance, and Compliance," National Environmental Business Council (March 6, 2019)

Personal

- In his spare time, Duncan enjoys family game nights, playing guitar, seeing live music, hiking, mountain biking, boating, and beachcombing.