



John J. Vay

Of Counsel

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John J. Vay manages a wide variety of regulatory, transactional, litigation, and legislative matters at the local, state, and federal levels, primarily in the areas of environmental, natural resources, water, and utility law. He represents and counsels clients in various regulatory proceedings, in commercial business, real estate and transactional matters, and in administrative and civil litigation in state and federal district courts. He also serves as a mediator and contract hearings examiner in contested proceedings.

Professional Experience

- Represents and provides counseling to corporate, municipal, and individual clients in numerous industries and areas, including solid waste and wastewater management, air emissions, injection wells, groundwater and surface water rights, oil and gas waste management, site remediation and development, and recycling programs.
- Manages regulatory, transactional, litigation, and legislative matters at the local, state, and federal levels, primarily in the areas of environmental, natural resources, water, and utility law
- Extensively experienced in permitting, compliance, and rulemaking matters before the Texas Commission on Environmental Quality, the Railroad Commission of Texas, the Texas Department of State Health Services, the State Office of Administrative Hearings, the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and other regulatory agencies and governmental entities
- Former General Counsel, Assistant Chief Hearings Examiner, and Staff Attorney for the state's primary environmental regulatory agency

Professional & Community Activities

- State Bar of Texas
 - Administrative & Public Law Section, Former Board Member, Officer and Chair
 - Environmental & Natural Resources Section
- Austin Bar Association
 - Administrative Law Section, Former Board Member, Officer and Chair
 - Environmental Law Section
- Society of Former Special Agents of the FBI
- Mobile Loaves and Fishes, Volunteer

Practice Areas

- Environmental
- Legislative Advocacy
- Regulatory Compliance
- Regulatory Litigation

Awards & Recognitions

- *Texas Super Lawyers*, Environmental Law, 2008–present
- *Best Lawyers in America*, Environmental Law, 2007–present
- *Chambers USA* Guide

Education

- St. Mary's University School of Law, San Antonio, Texas
 - J.D., 1984
 - *St. Mary's Law Journal*, Staff
 - Phi Delta Phi International Honorary Legal Fraternity, Officer
- Susquehanna University, Selinsgrove, Pennsylvania
 - B.A., Economics and Political Science, 1981
- University College, Oxford, England
 - International Summer Studies Program, 1979

Admissions

- Texas
- Qualified for Appointment as Impartial Third Party, TEX. CIV. PRAC. & REM. CODE §154.052.



Relevant Experience

John J. Vay represents and provides counseling to corporate, municipal, and individual clients in the following areas:

- Solid Waste Management:
 - Industrial hazardous and nonhazardous solid waste management, permitting, compliance and enforcement under federal and state regulatory programs, including the federal Resource Conservation and Recovery Act (RCRA) Subtitle C program and the Texas Solid Waste Disposal Act (TSWDA)
 - Municipal solid waste (MSW) management, permitting, compliance and enforcement under federal and state regulatory programs, including the federal RCRA Subtitle D program and the TSWDA
 - Radioactive materials licensing, permitting and compliance, including regulation and disposal of low-level radioactive waste, under the Texas Health and Safety Code (THSC)
- Wastewater Management:
 - Industrial and municipal wastewater and storm water management, permitting, compliance and enforcement under federal and state regulatory programs, including the federal Clean Water Act (CWA) and the Texas Water Code (TWC)
 - Concentrated animal feeding operation (CAFO) and feedlot permitting, compliance and enforcement under the CWA and the TWC
- Air Emissions:
 - Air quality management, permitting and compliance under federal and state regulatory programs, including the federal Clean Air Act (CAA) and the Texas Clean Air Act (TCAA), including new source review permits, standard permits, and permits-by-rule
- Toxic Substances:
 - Toxic substance management, compliance and enforcement under federal and state regulatory programs, including asbestos, lead and PCBs under the federal Toxic Substances Control Act (TSCA) and the Texas Solid Waste Disposal Act (TSWDA)
- Storage Tanks:
 - Aboveground, underground and petroleum storage tank (PST) compliance, remediation and reimbursement under the Texas Water Code (TWC)
- Recycling Programs:
 - Used oil, waste tires, and other recycling programs under the Texas Water Code (TWC) and the Texas Solid Waste Disposal Act (TSWDA)
- Injection Wells:
 - Underground injection control and waste disposal well permitting, compliance and enforcement under the federal Safe Drinking Water Act (SDWA) and the Texas Water Code (TWC), including Class I hazardous and non-hazardous wastes disposal wells and Class III in situ uranium mining
- Water Rights:
 - Surface water rights permitting and compliance, and groundwater permitting and compliance, under the Texas Water Code (TWC) and enabling legislation for groundwater conservation districts
- Oil and Gas Waste Management:
 - Oil and gas waste processing and disposal facilities (Rule 8) and saltwater disposal wells (Rule 9) and related compliance issues before the Railroad Commission of Texas under the Texas Natural Resources Code



- Site Remediation and Development:
 - Innocent Owner Program (IOP) activities and certification under the Texas Solid Waste Disposal Act (TSWDA)
 - Voluntary Cleanup Program (VCP) activities and certification under TSWDA
 - Dry Cleaner Remediation Program (DCRP) activities and certification under TSWDA
 - Corrective action and spill response activities under federal and state regulatory programs, including the federal Resource Conservation and Recovery Act (RCRA), federal Clean Water Act (CWA), Texas Solid Waste Disposal Act (TSWDA) and Texas Water Code (TWC)
 - Phase I/II environmental site assessments (ESA) review under federal "all appropriate inquiry" and ASTM standards
- 'Superfund' Matters:
 - Investigation and remediation of hazardous substance and solid waste releases under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Texas Solid Waste Disposal Act (TSWDA)
 - Cost recovery and contribution claims for environmental response costs under CERCLA and TSWDA
 - Reporting releases of hazardous and extremely hazardous substances and compliance under CERCLA and the Emergency Planning and Community Right to Know Act (EPCRA)
- Administrative Hearings:
 - Contested hearings subject to the Texas Administrative Procedure Act (APA) before the State Office of Administrative Hearings (SOAH), Texas Commission on Environmental Quality (TCEQ), Railroad Commission of Texas (RRC), and other administrative agencies and governmental bodies
 - Contract hearings examiner or presiding officer in contested proceedings before governmental bodies including groundwater conservation districts
- Rulemaking:
 - Regulatory agency rulemaking and policy development, including comments and proceedings before the Texas Commission on Environmental Quality (TCEQ), Railroad Commission of Texas (RRC), and Texas Department of Health (TDH)
- Civil Litigation:
 - Litigation support in state and federal district court proceedings concerning environmental issues, including claims under CERCLA, the Clean Water Act (CWA), the Oil Pollution Act (OPA), the Texas Solid Waste Disposal Act (TSWDA), the Texas Water Code (TWC), and other statutory and common law claims
 - Judicial challenges and appeals of agency decisions and rulemaking under the Texas Administrative Procedure Act (APA) and other statutes
 - Expert testimony on environmental regulatory and administrative law matters
- Alternative Dispute Resolution / Mediation:
 - Qualified for appointment as an impartial third party (e.g., mediator) under Tex. Civ. Prac. & Rem. Code §154.052
- Open Government Issues:
 - Texas Public Information Act (PIA) and federal Freedom of Information Act (FOIA) compliance and counseling
 - Texas Open Meetings Act (OMA) compliance and counseling
- Legislative Issues:
 - Legislative drafting, testimony, and representation during regular and special called sessions of the Texas Legislature
 - Lobbyist registration, reporting and compliance counseling under programs administered by the Texas Ethics Commission (TEC)