

Key Developments in Environmental Law and Policy in 2023, and What's Ahead in 2024

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On this episode of the Bracewell Environmental Law Monitor, we look back at the significant developments in environmental and natural resources law and policy in 2023, as well as look ahead to what's to come in 2024. Co-hosts [Daniel Pope](#) and [Taylor Stuart](#) talk with [Ann Navaro](#) and [Tim Wilkins](#), partners in Bracewell's [environment, lands and resources](#) practice, about a range of topics, such as climate and environmental justice, renewable energy advancements, regulatory developments and much more.

Featured Guests

Name: [Ann Navaro](#)

About: Ann Navaro is a partner in Bracewell's Washington, DC office. She advises on and litigates under the federal laws and policies governing natural resources and the environment. After more than 25 years as a top litigator and policy adviser to the federal government, Ann brings exceptional insight and acumen to clients seeking to build infrastructure, produce valuable natural resources or improve government policies and programs affecting their businesses.

Company: [Bracewell](#)

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Name: [Tim Wilkins](#)

About: Tim Wilkins is co-chair of Bracewell's environmental, social and governance (ESG) practice and the managing partner of the firm's Austin office.

Related People

Daniel

Counsel

AUSTIN

+1.512.494.3675

daniel.pope@bracewell.com

Taylor

Associate

WASHINGTON, DC

+1.202.828.1732

taylor.stuart@bracewell.com

Ann

Partner

WASHINGTON, DC

+1.202.828.5811

ann.navaro@bracewell.com

Timothy A. Wilkins

Managing Partner - Austin

AUSTIN

+1.512.542.2134

tim.wilkins@bracewell.com

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Tim's clients rely on him for the defense of environmental enforcement actions and assistance with the environmental aspects of major transactions and project development matters, including siting and permitting. He has also overseen environmental compliance audits involving thousands of locations, handled hundreds of environmental audit disclosures and pioneered the development and use of US EPA's audit policy for new owners.

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Episode Highlights

[01:44] **Big Developments in 2023:** The Biden administration's top priorities have been climate and environmental justice. The big development of 2023 on the climate front has been on the methane side rather than the carbon dioxide side. Regarding environmental justice, the Biden administration and NGOs have been really pushing to apply justice factors in enforcement, in cleanups, new rulemaking, permitting, issuance of grants and loans, and the like.

[06:59] **A Significant Year for Jurisdiction Under the Clean Water Act:** Almost a year ago, the Biden administration issued its definition of "Waters of the United States." Subsequently, the Supreme Court issued another decision interpreting Waters of the United States in the *Sackett* case and essentially eviscerated one of the bases for the Biden administration's Waters of the US rulemaking. Litigation is ongoing.

[09:33] **Congress Amended the National Environmental Policy Act and the Fiscal Responsibility Act:** This was enormous, as core provisions had never seen substantive amendments. There are mixed reviews of what that amendment to NEPA accomplished.

[13:41] **Renewable Energy:** There's been advancement in renewable energy projects and trying to permit those projects and an emphasis on promoting renewable energy. For example, for offshore wind, in this year and in prior years of the Biden administration, there's been a lot of advancement on leasing.

[21:57] **On the Horizon in Environmental Law in 2024:** Ann shares that the US Army Corps of Engineers could revise Nationwide Permit 12. Tim shares that the White House is reviewing EPA's CERCLA hazardous substance listing for two of the leading PFAS chemicals, and the listing will go final sometime early in 2024. In addition, the SEC's semi-annual rulemaking agenda for April 2024 promises to include proposed climate disclosure rules for publicly traded companies.

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