

SHEEHAN PHINNEY

Thomas S. Burack

Shareholder | Manchester, NH

Tom is a nationally recognized strategic leader in the fields of environmental, public health and energy regulation, as well as organizational management and governance. At the start of 2017, Tom returned to Sheehan Phinney after serving for over ten years as the Commissioner of the New Hampshire Department of Environmental Services. His thirty years of experience working in all three branches of government as well as the private sector enable him to provide clients with an in-depth understanding of how the federal, state and local governments operate, and how the public and private sectors can constructively collaborate to solve problems and resolve disputes.

Tom represents clients across the full range of corporate and organizational challenges and needs in the environmental arena, including with permitting, regulatory compliance, enforcement, groundwater contamination, site investigation and remediation, brownfields, transactional due diligence, management systems, and sustainability. Tom has substantial expertise representing clients before regulatory agencies under federal and state programs, including the Resource Conservation and Recovery Act, the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, as well as laws governing wetlands, dams, and abatement of structural hazards (e.g., PCBs, asbestos and lead paint). Tom also advises clients on emergency preparedness, response and recovery issues, and has experience in helping to lead governmental responses to natural and manmade disasters.

In the energy sector, Tom is experienced with development activities, including site development and power purchase agreements, as well as with electric vehicle infrastructure, efficiency and renewable energy projects. Tom has deep insights into energy facility siting strategies and processes based upon his prior service on the State of New Hampshire's Energy Facility Site Evaluation Committee.

Tom consults with organizations on a diverse set of environmental, energy, and organizational management and governance issues. A skilled group facilitator, Tom guides clients through comprehensive scenario thinking and strategic planning processes to develop living strategic plans that are regularly monitored and updated. As a Lean Green Belt, Tom assists clients in implementing continuous process improvement as a management strategy.

While serving as the Commissioner of the NHDES, Tom spearheaded creation of E-Enterprise for the Environment, a shared governance approach among the US Environmental Protection Agency, states and tribal governments to

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modernize and streamline the business of environmental protection and regulation in the United States. He served as the first state co-chair of the E-Enterprise Leadership Council, which provides strategic direction for the overall initiative and oversight of dozens of E-Enterprise projects. He now serves as an executive advisor and consultant to the initiative.

Tom grew up in New Hampshire's White Mountains, and loves to hike, ski and canoe. As a professional raconteur, he is known for calling moose, performing as Daniel Webster, and regaling many an audience with tales of the North Country. Tom is a Harry S. Truman Scholar, served as Law Clerk to the Honorable David H. Souter on the Supreme Court of New Hampshire, and as Legislative Assistant for Environmental Matters to U.S. Senator Gordon J. Humphrey (R-NH) in Washington, DC. Tom is a Fellow in the American College of Environmental Lawyers (ACOEL). In 2019, Tom is serving as the Perkins Bass Distinguished Visitor at the Rockefeller Center for Public Policy at Dartmouth College.



Contact Information

Phone: 603.627.8387

Fax: 603.641.2376

Email: tburack@sheehan.com

Key Cases

- Assists manufacturing facilities in complex regulatory proceedings involving production processes and waste streams. Secured the first contained-in determination ever issued by the NH Department of Environmental Services pursuant to the Resource Conservation and Recovery Act (RCRA) for a liquid waste stream.
- Conducts environmental due diligence in support of acquisition of facilities and product lines, including manufacturing, solid waste and energy generation facilities. Secured process compliance concurrence letter from the NH Department of Environmental Services for a transaction.
- Counsel to energy development and other companies in acquisition and brownfields redevelopment of contaminated properties, including former industrial and commercial sites, as well as municipal landfills.
- Counsel to owners of dams regarding compliance and rehabilitation of dam structures determined to have deficiencies by the NH Department of Environmental Services.
- Counsel to Potentially Responsible Parties (PRPs) in Superfund Site matters, including settlement negotiations.
- Counsel to nonprofit corporations on full suite of needs, including obtaining and maintaining tax exempt status under state laws and the Internal Revenue Code, policy development, board governance, charitable contributions, and conservation and historic preservation easements.
- Facilitates and guides organizations' scenario thinking processes and development of living strategic plans that support substantial future growth and service opportunities.

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Practice Areas

- Environment & Energy
- Non-Profit, Charitable & Religious Institutions

Admissions and Certifications

- State of New Hampshire
- Lean Green Belt - Bureau of Education and Training, NH Dept. of Administrative Services
- National Incident Management System/Incident Command System (NIMS/ICS)
- NH Certified Hazardous Waste Coordinator

Education

- J.D., University of Virginia School of Law
- B.A., Dartmouth College, *magna cum laude*

Industry & Civic Involvement

- Board of Directors, Clean Energy NH
- E-Enterprise for the Environment: Former State Co-Chair of E-Enterprise Leadership Council
- Environmental Council of the States: Former President, Vice President and Secretary/Treasurer
- Regional Greenhouse Gas Initiative, Inc.: Former Member, Board of Directors and Executive Committee; Secretary, and Chairman of Audit Committee
- Northeast Regional Ocean Planning Body: Former Member
- New Hampshire Climate Change Policy Task Force: Chairman
- New Hampshire Water Sustainability Commission: Member
- New Hampshire Lives on Water: Former Steering Committee Member
- Conference of New England Governors and Eastern Canadian Premiers: Former Co-Chair of Regional Climate Change Action Plan Development Workgroup
- Leadership New Hampshire (Class of 1997) and Leadership Greater Manchester (Class of 1993)
- Business & Industry Association of New Hampshire; Former Chairman of the Institute for Community, Business and the NH Economy; Former Chairman of the WasteCap Resource Recovery Network
- NH Land & Community Heritage Investment Program: Former Chairman, Board of Directors
- Audubon Society of New Hampshire: Former Chairman, Board of Trustees
- Truman Scholars Association: Founding President
- George C. Marshall Foundation: Former Member, Board of Trustees; Member, Council of Advisors
- Dartmouth Environmental Network, Dartmouth College: Founder and First President

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Awards

- Chambers USA, Environmental
- 2019 Dartmouth College Perkins Bass Distinguished Visitor
- Joseph E. Stevens Award, Harry S. Truman Scholarship Foundation
- President's Award, Environmental Council of the States
- Paul G. Keough Award, Environmental Business Council of New England
- Cotton Mather Cleveland Leadership Award for Exemplary Leadership, Leadership New Hampshire
- Environmental Excellence Award, Resource Conservation Network
- EPA New England's 2017 Ira Leighton "In Service to States" Annual Award

Publications

- Having Energy When Everyone Else's Power is Out
- Loving that PFAS: Does EPA's Valentine's Day PFAS Action Plan Portend a Change of Heart?
- Acronymic Acrobatics: Why Poly- and Perfluoroalkyl Substances (PFAS) are becoming a Problem For All States
- Not so Crazy Talk: Net-Zero Energy Buildings
- NH Legal Perspective: If you heat with oil, pay attention or pay the price
- Clean Tech Corner: When clean technology meets policy
- “
Collaborative Federalism
,” with A. Stanley Meiburg, *The Environmental Forum*, May/June 2016, pp. 22-27
- “Of Reliable Science: Scientific Peer Review, Federal Regulatory Agencies, and the Courts,” *7 Virginia Journal of Natural Resources Law* 27 (1988)