

Whit Swift
Partner

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About Whit

Whit Swift advises industrial companies on air quality matters, such as state and federal new source review permitting and Title V operating permit matters. In connection with that permitting work, he has represented applicants in contested permit matters before the Texas Commission on Environmental Quality (TCEQ) and the Texas State Office of Administrative Hearings (SOAH).

In addition to permitting work, Whit assists major manufacturing, energy, chemical and petrochemical companies with compliance issues related to the Clean Air Act (CAA). His CAA compliance work includes auditing, compliance counseling, and enforcement defense work under state and federal programs, including the federal Risk Management Plan (RMP) program, federal regulatory requirements governing sources of hazardous air pollutants (National Emissions Standards for Hazardous Air Pollutants (NESHAP), release reporting, and State Implementation Plan (SIP) rules regulating point sources.

Recent Notable Matters

Texas Microgrid, LLC — first-of-its-kind project financing for the construction and operation of a portfolio of distributed microgrids consisting of ultra-clean natural gas-fired generators within ERCOT service territory with up to 232 MW of generating capacity

Major manufacturing, energy, chemical, and petrochemical companies — evaluating the applicability of permitting requirements and with the development and implementation of state and federal preconstruction and operating permit strategies

Refinery owner/operator — developing strategy for both state and federal permitting actions to ensure timely permit issuance and start of operation for major refinery expansion

Petroleum refineries and chemical plants — on-site investigations and related information requests and subsequent enforcement actions brought by the U.S. Environmental Protection Agency (EPA) enforcement under the RMP program

Texas chemical plant — negotiate a settlement with the EPA to resolve an RMP enforcement action following a fatality accident at its site

Chemical manufacturers — evaluate response strategy and lead negotiations with TCEQ Enforcement Division representatives aimed at reducing the penalties sought in significant environmental enforcement actions

Chemical manufacturer — drafting and negotiating a novel corrective order to resolve past liability for unauthorized emissions and establish a stipulated penalty structure to address future emissions events and remove the owner/operator from a cycle of Notices of Enforcement and administrative penalty orders

Power generation and materials handling companies — contested case hearings before SOAH over preconstruction air quality permits

Manufacturers — responding to information requests received from the EPA under Section 114 of the CAA and in defending against alleged Prevention of Significant Deterioration (PSD) violations in a subsequent enforcement action*

* Work completed prior to Bracewell

Publications and Speeches

Co-presenter, "Environmental Law's Not Dead Yet: Optics Versus Reality in the New Administration's Regulatory Reform Project," Association of Corporate Counsel South/Central Texas Chapter, July 12, 2017.

"Chapter 5: Air Quality," *Texas Environmental Law*, Thomson Reuters Texas Practice Series, 2015-2016.

"Implementation of the 2015 Ozone NAAQS," *Houston-Galveston Area Council Regional Air Quality Planning Advisory Committee*, November 17, 2016.

"Agency-Related Ethics Issues," 2*6th Annual Texas Environmental Superconference*, Austin, Texas, August 7-8, 2014.

"Greenhouse Gas Permitting Process: Legal Perspective," *Texas Chemical Council/Association of Chemical Industry of Texas*, June 5, 2013.

"Regulating Greenhouse Gases: The Endangerment Finding, the Triggering Rule, the Tailoring Rule, and the Proposed New Source Performance Standards for Power Plants," *University of Texas School of Law Power Plant Conference*, February 1, 2013.

Education

The University of Texas School of Law, J.D.
1996 – *Order of the Coif*

Washington and Lee University, B.A.
1993

Noteworthy

Chambers USA, Texas Environment, 2015 - 2023

The Legal 500 United States, Environment: Litigation, 2016; Environment: Regulatory, 2016, 2023

BL Rankings, *Best Lawyers*, Environmental Law, 2016 - 2024; Litigation - Environmental, 2021 - 2024; Energy Law, 2023 - 2024; Austin Lawyer of the Year, Energy Law, 2024

Lawdragon Inc., *Lawdragon Green 500: Leaders in Environmental Law*, Air Quality, 2024

The University of Texas School of Law, *Order of the Coif*

Affiliations

State Bar of Texas, Environmental & Natural Resources Law Section

Austin Bar Association

Bar Admissions

Texas