



## Preston N. Carter

### Partner

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(208) 388-1222

Preston provides effective, practical guidance to clients dealing with state and federal regulations.

### Practice Areas

- Administrative and Regulatory Law
- Environmental Law
- Litigation
- Natural Resources
- Appeals and Litigation Strategy

### Industries

- Agriculture
- Energy and Utilities
- Food Processing and Manufacturing
- Forestry and Lumber
- Mining
- Real Estate Development, Construction and Investment
- State and Local Government

Preston's practice spans industries and subject-matters but contains a common thread: interfacing with the government in pursuit of the client's goals.

Preston has expertise in environmental litigation, constitutional and administrative litigation, and utilities law.

When not working, Preston enjoys the Idaho outdoors with his wife and three children.

### Recognition

Mountain States Super Lawyers, Rising Star, Environmental Litigation 2017-2023

Chambers USA, America's Leading Lawyers for Business (Natural Resources & Environment)

### Education

J.D., Notre Dame Law School 2010, *summa cum laude*

- Dean Joseph O'Meara Award for Outstanding Academic Achievement
- Executive Articles Editor, Notre Dame Law Review

BBA Finance, Political Science, University of Notre Dame 2007, *cum laude*

### Admissions

Idaho

U.S. Supreme Court

U.S. Court of Appeals for the Ninth and Third Circuits

U.S. District Court for the District of Idaho

### Judicial Clerkship

Hon. Paul J. Kelly, Jr., U.S. Court of Appeals for the Tenth Circuit

### Community Involvement

Commissioner, Boise Parks and Recreation Commission (2016-2023)

Participant, Leadership Boise (2015-2017)

Member, Environmental and Natural Resources Section, Idaho State Bar



## **Experience**

Representative matters include the following.

### **Environmental disputes and litigation**

Represented clients from a broad range of industries, including food processing facilities, dairies, renewable energy facilities, and others in investigations, administrative enforcement actions, and judicial enforcement actions brought by the United States Environmental Protection Agency (EPA), the Idaho Department of Environmental Quality (IDEQ), the Idaho State Department of Agriculture (ISDA), the Idaho Department of Water Resources (IDWR), the United States Department of Agriculture (USDA).

Defended clients, including mining companies, public utilities, and dairy facilities in federal citizen-suits under the Clean Water Act (CWA) and Resource Conservation and Recovery Act (RCRA).

Represented clients, including mining companies and Idaho Counties, as intervenor-defendants and as plaintiffs in federal lawsuits under the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and the Wilderness Act.

Represented clients, including agricultural entities and mining companies, in federal and state litigation under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

### **Administrative/constitutional issues and appeals**

Filed amicus brief in the U.S. Supreme Court regarding the scope of EPA's authority under the Clean Water Act

Filed amicus brief in the U.S. Supreme Court regarding the right to free association

Filed amicus brief in the U.S. Court of Appeals for the Third Circuit regarding the right to free association

Filed amicus briefs in Idaho district court and the Idaho Supreme Court regarding deference to administrative agencies

Represented client in First Amendment civil-rights litigation against the Idaho State Police, Alcohol Beverage Control

Defended client on First Amendment grounds in judicial enforcement action related to campaign-finance disclosures

Represented clients in litigation related to procurement awards, including administrative appeals, litigation in district court, and on appeal

Represented clients in constitutional litigation under Article XI, section 12 of the Idaho Constitution

### **Public utilities and energy**

Represented clients, including water utilities, natural gas utilities, and renewable energy companies in proceedings before the Idaho Public Utilities Commission (IPUC) and the Federal Energy Regulatory Commission (FERC).

Represented renewable energy facilities at the diligence, permitting, financing, construction, and operational phases regarding permitting, compliance, and related matters.

### **Permitting**

Represented a wide range of clients, including dairies, municipalities, food processing facilities, renewable energy facilities, and industrial facilities, in obtaining state and federal permits and authorizations under the CWA, the Clean Air Act (CAA), and various state and local laws and ordinances.

Represented clients, including mining companies and individuals, in negotiating and obtaining Plans of Operation and related authorizations to allow mining, access, and related activities on federal and state property.

Represented renewable energy facilities at the diligence, permitting, financing, construction, and operational phases regarding permitting, compliance, and related matters.

### **Road/access and land-use litigation**

Represented clients, including municipalities and citizens, in state and federal litigation stemming from road creation and abandonment proceedings, and related matters, throughout the state.

### **Tax disputes**

Represented clients from a wide variety of industries in obtaining tax and other economic incentives.

Represented clients, including renewable energy facilities, before the Idaho State Tax Commission in administrative proceedings related to the applicability of certain tax exemptions.

Represented clients, including natural-gas processing facilities, in tax appeals challenging the valuation of facilities and equipment.

Represented clients in filing amicus briefs on tax and administrative-law issues in district court and on appeal.

### **Publications**

- If an (Endangered) Tree Falls in the Forest, and No One Is Around Resolving the Divergence Between Standing Requirements and Congressional Intent in Environmental Legislation, 84 Notre Dame Law Review 2191 (2009)