



## Kevin M. Bernstein

### Member

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### Profile

**Working through the environmental aspects of business transactions, Kevin is a leader, guiding his clients through the regulatory maze that dominates environmental and energy law.**

Kevin regularly appears before the Department of Environmental Conservation (DEC), the Public Service Commission and other state and federal agencies when he is obtaining permits and approvals for:

- mining
- power generation
- electrical and gas transmission
- gas storage
- landfill
- wind energy projects

In the mining and construction materials industry, he has permitted:

- sand and gravel mines (both above and below the water table)
- asphalt and concrete plants
- small and large rock and mineral quarries
- major oil storage facilities

Kevin has worked on numerous State Pollutant Discharge Elimination System (SPDES) permitting matters, including instances where the DEC has sought to modify permits and impose often stringent limitations, including with regard to cooling water intake structures.

Kevin also has considerable experience in matters relating to the permitting of solid waste landfills, wastewater treatment facilities and other large facilities (e.g., distribution and warehouse facilities). In connection with these projects, issues related to compliance with the State Environmental Quality Review Act (SEQRA) are always present and he has gone through the entire SEQRA process, including for larger projects the issuance of a Final Environmental Impact Statement and Findings Statement.

In addition to obtaining permits (including participating in numerous hearings to obtain those permits), Kevin has been involved in numerous litigations, either defending against opposition or citizens groups or protecting the rights of his clients against those entities (such as municipalities).

Kevin also has significant experience in corrective action matters, such as:

### Education

- Vermont Law School (J.D., *cum laude*, 1985)
- State University of New York at Brockport (B.S. 1982)

### Bar/Court Admissions

- New York
- Maine
- Pennsylvania
- District of Columbia

### Practices

- Municipalities
- Toxic Tort and Environmental Litigation
- Tax Assessment, Condemnation & Property Valuation
- Property
- OSHA
- Environmental and Energy

- state Superfund remediation issues
- hazardous substance and petroleum bulk storage tanks
- petroleum contamination issues
- toxic torts

Kevin also represents clients in defense of claims asserted by federal and state governmental agencies for cleanup costs, penalties and other enforcement matters brought under federal and state Superfund statutes, New York State Navigation Law and the Clean Water Act. In connection with this representation, he has negotiated a number of Administrative Orders on Consent and Consent Decrees with the New York State DEC, the Environmental Protection Agency and the Department of Justice.

### **Energy**

Kevin has been lead project counsel on numerous Public Service Law Article VII gas and electric transmission projects (including for regulated public utilities), an Article X power plant project (the last one to be approved in New York State under the previous Article X) for a merchant developer, numerous wind energy facilities and underground and above ground natural gas and liquid petroleum gas storage and transportation facilities for a major midstream company.

Kevin previously served the firm as chairman of the management committee, and led the firm in a progressive fashion during a transitional time in the legal industry.

### **Honors & Affiliations**

- Listed in:
  - *The Best Lawyers in America*®, Energy Law; Environmental Law; Litigation - Environmental, 2009-2024 (listed for more than 15 years)
    - Lawyer of the Year (Syracuse), Environmental Law, 2014; 2018; 2020; 2023
    - Lawyer of the Year (Syracuse), Litigation - Environmental, 2015
  - *New York Super Lawyers*®, Environmental, 2023 (listed for more than 10 years)
  - *Chambers USA 2023*, Environmental – Upstate New York and Environmental – New York
  - *Martindale-Hubbell*®, AV Preeminent Rated
- New York State Bar Association, Former Chair, Environmental and Energy Law Section
- Maine Bar Association
- Pennsylvania Bar Association
- District of Columbia Bar Association
- Onondaga County Bar Association, Environmental Law Committee
- Air and Waste Management Association, Central New York Chapter
- American Wind Energy Association (AWEA)
- Independent Power Producers of New York (IPPNY)
- Independent Oil and Gas Association (IOGA) of New York
- New York Association for Solid Waste Management
- New York Construction Materials Association (NYCMA), Board Member

- New York State Wetlands Forum, Past Co-Chair
- New York Water Environment Federation Association

### Representative Presentations

- A Special Episode with Kevin Bernstein, Bond's 125th Anniversary, Legally Bond Podcast, December 21, 2022
- A Special Episode with Kevin Bernstein, Legally Bond Podcast, September 12, 2022
- A Special Episode with Kevin M. Bernstein and Ralph Rosella, Legally Bond Podcast, June 6, 2022
- An Interview with Kevin Bernstein, Environmental and Energy, Legally Bond Podcast, July 12, 2021
- Panel Member, Energy from Waste: Where are We, and Where Are We Going To?, NYSASWM, May 21-24, 2017

### Representative Publications

- "Court Rules that Red Wing Has a Vested Right to Mine its Property," *Materials Matter*, Fall 2020

### Other Activities

- Board Member, Baldwinsville Community Scholarship Foundation
- Board Member, CenterState CEO
- Board Member, Paige's Butterfly Run, Inc.
- Board Member, United Way of Central New York
- Board Member, YMCA of Central New York
- Board of Education, Baldwinsville Central School District, 2000-2009