



## Kevin M. Bernstein

### Management Committee Chairman

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### Profile

**Kevin is an environmental and energy attorney. He also practices in other areas such as land use, condemnation and real estate.**

Kevin's energy and environmental practice focuses on obtaining permits and approvals for private and municipal clients for gas storage, mining, power generation, landfill, electrical and gas transmission and wind energy projects. He regularly appears before the Public Service Commission, the Department of Environmental Conservation (DEC) and other state and federal agencies.

As energy counsel, 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 (the last one to be approved in New York State under the previous Article X) project for a merchant developer, numerous wind energy facilities and underground and aboveground natural gas and liquid petroleum gas storage and transportation facilities for a major midstream company.

In addition to energy matters, Kevin has significant experience representing companies in the mining and construction materials industry. He has permitted sand and gravel mines (both above and below the water table), small and large rock and mineral quarries, asphalt and concrete plants and major oil storage facilities sometimes affiliated with such plants. In connection with these facilities and others, Kevin has worked on numerous State Pollutant Discharge Elimination System (SPDES) permitting matters, including instances where the DEC has sought to modify such permits and impose often stringent limitations, including with regard to cooling water intake structures.

Beyond his experience in the mining and energy sectors, 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 considerable experience when it comes to SEQRA, having been lead counsel for numerous projects which have gone through the entire SEQRA process including an FEIS 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

### 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

against those entities (such as municipalities) who have sought to zone out the activities sought to be permitted. He has done so in connection with numerous mining projects, wind energy and landfill projects.

In connection with any of above energy or environmental projects, Kevin often finds himself focusing on responding to concerns raised by the public regarding air emissions, noise, endangered species, property values, visual impacts and wetlands.

Kevin also has significant experience in corrective action matters, State Superfund remediation issues, petroleum contamination issues, hazardous substance and petroleum bulk storage tanks, toxic torts, defending criminal investigations, zoning and land use matters and the environmental aspects of business transactions, including environmental due diligence.

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 Department of Environmental Conservation, the Environmental Protection Agency and the Department of Justice.

## **Honors & Affiliations**

- Listed in:
  - *The Best Lawyers in America*® 2021, Energy Law; Environmental Law; Litigation - Environmental (listed for more than 10 years)
    - *Best Lawyers* Syracuse Environmental Law Lawyer of the Year, 2014, 2018, 2020
    - *Best Lawyers* Syracuse Litigation - Environmental Lawyer of the Year, 2015
  - *Chambers USA* 2020, Environmental
  - *Martindale-Hubbell*®, AV Preeminent Rated
  - *New York Super Lawyers 2020*®, Environmental (listed for more than 10 years)
- New York State Bar Association, 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

- 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