



Howard Kenison

Shareholder

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Denver, CO 80202

Howard Kenison's experience litigating environmental cases before state and federal courts and administrative agencies provides invaluable knowledge and insight for business clients dealing with the complex array of environmental laws that can impact commercial transactions.

PRACTICE AREAS:

Environmental
Litigation

EDUCATION:

University of Denver College of Law
University of Washington

LICENSED IN:

CO

His practice includes environmental due diligence in corporate acquisitions and real estate transactions, air quality litigation and permitting, NEPA litigation for utility, water and transportation projects, environmental audits for corporate risk prevention, wetlands permitting and defense of enforcement actions, hazardous and radioactive waste facility litigation, water quality permitting and enforcement actions, superfund and natural resource damage litigation and environmental insurance litigation.

Howard is the former Colorado Deputy Attorney General in charge of Colorado's Superfund Litigation and he maintains key contacts with environmental agencies.

Significant Representations

Environmental Liabilities and Due Diligence

Howard regularly advises clients involved in complex asset, stock purchase transactions, real estate development projects and other business transactions concerning the allocation of environmental risks and liabilities, including environmental representations and warranties, indemnities and due diligence efforts. His experience litigating environmental cases provides a practical aspect to his advice.

- Representative cases: Howard has provided counsel to an electric generating utility concerning the potential environmental liabilities and the allocation of environmental risk arising from the acquisition, development and construction of a new generating facility.
- Provide advice and counsel regarding potential environmental liability for real estate development project to be developed on a closed landfill a on former federal facility.
- Advise client regarding environmental representations and warranties and disclosures in stock purchase transactions.
- Work with client to prepare request for proposals and expert studies to develop

environmental baseline in purchase agreement.

Clean Air Act Litigation and Permitting

Howard represents utility clients in litigation involving air permits and counsel's clients concerning permitting and compliance with state and federal clean air act laws.

- **Representative Cases:** Howard represents a major electric utility concerning an air permit for a generating facility and was litigation counsel for this utility in lawsuits related to the air permit. In the past he defended utilities involved in a visibility impact case brought under the federal Clean Air Act.

NEPA Litigation

Howard provides strategic advice and counsel to clients involved in preparing and, if needed, litigation of Environmental Impact Statements for utility transmission, highway transportation and water projects, including litigation-sensitive advice regarding comments for the administrative record involving purpose and need, environmental impacts, noise, air quality, wetlands, air toxics, traffic demand and Section 4(f) parks and historic properties.

- **Representative Cases:** He represents the Jefferson Parkway Public Highway Authority as special environmental and litigation counsel involving the completion of the transportation beltway around Metro Denver.
- He recently settled litigation involving a Colorado mutual ditch company that challenged the adequacy of an EIS.
- In the past, Howard has represented the E-470 Public Highway Authority and the Northwest Parkway Public Highway Authority as Special Environmental Counsel.

Hazardous Waste Facility Litigation and Permitting

Howard successfully represented a county government before the Colorado Supreme Court regarding disposal of low-level radioactive wastes under the Rocky Mountain Low-Level Radioactive Waste Compact. He advised the client on all aspects of Colorado's Hazardous Waste Act and Colorado's radiation control provisions, including the state permitting process and applicable local land use laws.

Wetlands Permitting and Enforcement

Howard defends clients in federal wetland enforcement actions and represents developers and others seeking to obtain permits from the United States Army Corps of

Engineers under Section 404 of the Clean Water Act.

- Representative Cases: He has represented developers in EPA and Corps enforcement cases that involve disputes over the agencies' Clean Water Act jurisdiction, negotiations of the terms and conditions of Consent Decrees and Administrative Compliance Orders as well as the amount of civil penalties. Howard has also provided legal strategy concerning the development of alternatives analysis in complex 404 permit applications.

Superfund Litigation

Howard has extensive experience in Superfund litigation including cost recovery cases and natural resource damage matters. He has worked as counsel for clients involved in PRP committees and has negotiated resolution of superfund claims with environmental agencies.

- Representative Cases: As Deputy Attorney General, Howard's principal responsibility was to provide strategic litigation planning for seven major Superfund lawsuits in Colorado federal courts; these cases included one of the largest contaminated sites in the nation - the Rocky Mountain Arsenal Superfund Site. He was directly involved in all aspects of cost recovery claims under CERCLA Section 107 as well as claims for natural resource damages.
- Howard also represented the City of Lakewood, Colorado as a PRP at the Lowry Landfill Superfund Site and has argued Superfund issues before the U.S. Court of Appeals.
- Howard recently settled EPA Superfund claims against a client at an historic mining site in South Dakota.
- He is currently representing a client in a case related to the de-listing of a landfill.

Water Quality Permitting and Enforcement

In addition to his wetlands practice, Howard provides advice and counsel to utility and other clients concerning NPDES permitting and represents clients where the government has initiated enforcement actions under state and federal water quality laws.

Environmental Audits for Corporate Risk Prevention

To assist clients in avoiding government enforcement actions, Howard routinely advises clients undertaking environmental compliance and environmental management system audits. His counsel involves advice concerning the application of federal and state environmental audit and privilege laws designed to protect clients from environmental liabilities and penalties.

Environmental Insurance Litigation

Howard served as environmental counsel for a large multi-state utility in a three-week jury trial seeking insurance recovery for releases of contaminants at three Superfund sites. The trial resulted in a \$7.1 million verdict for his client.

Media & Presentations

News Releases

02.09.2016: Howard Kenison Named Senior Fellow of Litigation Counsel of America

08.23.2012: Environmental Attorney Howard Kenison Working to Advance Rocky Mountain Greenway

02.10.2011: Howard Kenison Named a 2011 Law Star by University of Denver Sturm College of Law

01.07.2010: Denver Partner Howard Kenison Named Attorney of the Year

Media Mentions

09.16.2013: Cover Photo, Law Week Colorado

08.18.2012: Howard Kenison Quoted in Denver Post Story about low-level radioactive waste

01.19.2012: Howard Kenison Quoted in Denver Post Story

06.15.2009: Howard Kenison Featured in Cover Story Green Envy in Law Week Colorado

Publications

Reporting Releases of Contaminants (Chapter), Environmental Regulation of Colorado Real Property; Bain, Second Edition

EPAs Evolving Regulation of Greenhouse Gases, Colorado Lawyer

White Paper on the Rule of Law and Environmental Issues, International Rule on Law Symposium, New York City, NY

Professional & Community

Memberships

- Litigation Counsel of America, Senior Fellow (2018)
- 44th Spring Conference: The ABA Super Conference on Environmental Law, Program Chair (2015)
- Fellows of the American Bar Foundation, Colorado State, Chair
- American Bar Association (ABA) Standing Committee on Environmental Law, Member (1991-1995), Chair (2005-2007)
- ABA Section of Environment, Energy and Resources (SEER), World Justice Project Task Force, Chair (2009-2012, 2017)
- ABA SEER, Chair Governance Committee
- ABA SEER representative to World Justice Forum II, Vienna, Austria (2009) and World Justice Forum III, Barcelona, Spain (2011)
- ABA Working Group on Environmental Issues and the Rule of Law, Chair (2007)
- ABA General Practice, Solo and Small Firm Division, Environment, Energy and Natural Resource Committee, Chair (2003-2005)
- National Academy of Science's Transportation Research Board Committee on Environmental Issues in Transportation Law, Past Member
- ABA Superfund Re-Authorization Work Group, Member

- ABA SEER, Past Council Member
- ABA Sections of Litigation and Administrative Law, Member
- Colorado Bar Foundation, Fellow
- Colorado Lawyers Committee, Board Member
- Colorado Bar Association (CBA), Member
- CBA, Environmental Law Section Advisory Council, Past Member
- CBA, Board of Governors (1981 – 1983)
- University of Denver Sturm College of Law, Law Alumni Council, Member and Chair (2008 – 2010)
- Colorado Journal of International Environmental Law and Policy, University of Colorado Law School, Chair, Advisory Board (1992 – 2010)
- 22nd Annual Conference on the Environment, Public Participation in Environmental Decision Making, Program Chair (1993)
- 23rd Annual Conference on the Environment, U.S. Implementation of the Rio Agreements and Agenda 21, Program Co-Chair (1994)
- Conference on Environmental Priorities in Southeast Asian Nations, Bangkok, Thailand, Rapporteur (1996)
- Conference on Trade and the Environment in Pacific Rim Nations, Hong Kong, China, Panel Moderator (1993)

Community Involvement

- Rocky Mountain Greenway Steering Committee, Member (2013 – present)
- Volunteers for Outdoor Colorado, Board Member (2010 – 2016)
- Sand Creek Regional Greenway Partnership, Board Member, (2009 – 2011)
- Northeast Greenway Corridor Advisory Group, Working Group, Chair (2003 – 2013)
- State Board of the Great Outdoors Colorado Trust Fund, Member and Vice-Chair (1998 – 2002)
- Colorado State Board of Parks and Outdoor Recreation, Member (1995 – 1998)
- Task Force on Environmental Sustainability, City and County of Denver, Co-Chair (1999)
- Colorado Center for Environmental Management, Member and Chair (1991 – 1995)
- Board of Trustees Historic Denver, Member (1992 – 1994)
- Metro Denver Chamber of Commerce, Leadership Denver (1990 – 1991)

Awards

- Chambers USA: America's Leading Lawyers for Business, Natural Resources & Environment – Colorado (2014 – 2018)
- Best Lawyers in America (2011 – 2018)
- Best Lawyers in America, Denver Litigation – Environmental "Lawyer of the Year" (2016)
- Colorado Super Lawyers (2007 – 2015, 2018)
- Outstanding Alumni Award, University of Denver Sturm College of Law, Law Star (2011)
- Distinguished Natural Resources Practitioner-in-Residence, University of Denver Sturm College of Law (2010)
- Attorney of the Year, Law Week Colorado (2009)
- Martindale-Hubbell AV Preeminent® Rated, "Top Rated Lawyer in Denver"
- International Who's Who Legal, Environmental Law

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LEADING INDIVIDUAL

