

# Howard Kenison | JONES & KELLER

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 [joneskeller.com/attorney/howard-kenison](https://www.joneskeller.com/attorney/howard-kenison)

Howard Kenison is a former Colorado Deputy Attorney General and nationally recognized attorney in environmental law and litigation. With over four decades of accomplishments, he brings vast legal and practical knowledge for clients dealing with the complex array of environmental laws that can impact projects and commercial transactions.

Howard is serving as the Chair of the American Bar Association (ABA) Section of Environment Energy and Resources, an 8,000-plus member forum, through August 2021.

He effectively counsels clients before state and federal courts and administrative agencies, driving forward solutions that balance economic and environmental interests and achieve client objectives. He also frequently speaks to business and legal professionals in areas relevant to environmental law.

Howard's 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.

## **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.

- 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.

Howard represented a major electric utility concerning an air permit for a generating facility and was litigation counsel for this utility in lawsuits in appellate court 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.

- Howard represents the Jefferson Parkway Public Highway Authority as Special Environmental 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 involving a major trans-mountain diversion ditch.
- 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.

Howard 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. He has also argued Superfund issues before the U.S. Court of Appeals.

- 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.
- 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 Superfund 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**

03.16.20: 11 Jones & Keller Attorneys Named to Super Lawyers and Rising Stars Lists

11.22.2019: Howard Kenison Named to Who's Who in Energy

08.21.2019: 8 Jones & Keller Attorneys Named 2020 "Best Lawyers in America"

08.27.2019: Howard Kenison Chair-elect of American Bar Association Section of Environment, Energy and Resources

06/19/2019: Howard Kenison Top Ranked in the 2019 Chambers USA Guide

05/02/2019: 14 Jones & Keller Attorneys Named to the Super Lawyers and Rising Stars Lists

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

## **Presentations**

Waters of the United States – Update, Colorado Rural Electric Association, Spring Legal Seminar, May 19, 2017, Denver, CO.

Panel Moderator, Rising Superstars: The Tongue is Sharper than the Sword, ABA Section of Environment, Energy and Resources, 2016 Fall Conference, Denver, CO.

The Clean Water Rule & Waters of the United States: Can EPA Regulate Everything? Colorado Rural Electric Association, Spring Legal Seminar, May 6, 2016, Denver, CO.

Panel Moderator, Focus on the Third Sovereign: American Indian Tribes, ABA Section of Environment, Energy and Resources, 2016 Spring Conference, Austin, TX.

The Rocky Mountain Arsenal and the Northeast Greenway Corridor Project: Contamination to Collaboration, Rocky Mountain Land Use Institute's Annual Land Use Conference (2014), Denver, CO.

Environmental Reporting and Disclosure, Colorado Bar Association CLE on Environmental Liability in Real Estate Transactions, February 24, 2006, Denver, CO.

Governance Through Guidance: Administrative Rulemaking By Interpretation, The Rocky Mountain Mineral Law Foundation's Special Institute on Administrative Law, September 17, 2004, Denver, CO.

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)

## **Publications**

Environmental Rule of Law Index: A Task Force Pilot, *Natural Resources and Environment*, Vol. 33, No. 2, Fall 2018, (with Sarah Chamness Long, Rule of Law Index Director, World Justice Project, Washington, D. C.)

Reporting Releases of Contaminants, Chapter 11, *Environmental Regulation of Colorado Real Property*, 2<sup>nd</sup> Ed. (Stephen A. Bain ed., CLE in Colo. 2016)

EPAs Evolving Regulation of Greenhouse Gases, *The Colorado Lawyer*, Vol 40, No. 10, October 2011 (with Katherine A. Roek)

White Paper on the Rule of Law and Environmental Issues, International Rule on Law Symposium, Spring, 2007, New York City, NY

## **Professional & Community**

### **Memberships**

- American Bar Association (ABA) Section of Environment Energy and Resources (SEER), Section Chair (2020-2021). Section Chair-Elect (2019-2020), Section Vice-Chair, (2018-2019)
- Senior Fellow, Litigation Counsel of America, (2018)
- SEER's 44th Spring Conference: The ABA Super Conference on Environmental Law, Program Chair (2015)
- Fellows of the American Bar Foundation, Colorado State, Chair
- ABA Standing Committee on Environmental Law (SCEL), Member (1991-1995, 2004-2005), Chair (2005-2007)
- ABA Section of Environment, Energy and Resources (SEER), World Justice Project Task Force, Chair (2009-2012, 2017-2019)
- ABA SEER, Chair Governance Committee (2017-2018)
- 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 (2000 to present) and Chair (2008 – 2010)
- Colorado Journal of International Environmental Law and Policy, University of Colorado Law School, Chair, Advisory Board (1992 – 2010)
- SCEL's 22nd Annual Conference on the Environment, Public Participation in Environmental Decision Making, Program Chair (1993)
- SCEL's 23rd Annual Conference on the Environment, U.S. Implementation of the Rio Agreements and Agenda 21, Program Co-Chair (1994)

## **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 (1998 – 2002), Vice-Chair (2001-2002)
- 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 (1991 – 1995) Chair (1994 – 1995)
- Board of Trustees Historic Denver, Member (1992 – 1994)
- Metro Denver Chamber of Commerce, Leadership Denver (1990 – 1991)

## **Practice Areas**

Environmental  
Litigation

## **Awards**

- Chambers USA: America's Leading Lawyers for Business, Natural Resources & Environment – Colorado (2014 – 2020)

- Outstanding Alumni Award, “Law Star,” University of Denver Sturm College of Law, (2011)
- Distinguished Natural Resources Practitioner-in-Residence, University of Denver Sturm College of Law (2010)
- Attorney of the Year, Law Week Colorado (2009)
- Litigation Council of America
- Best Lawyers® in America, (2011 – 2021)
- Best Lawyers® in America, Denver Litigation – Environmental “Lawyer of the Year” (2016)
- Colorado Super Lawyers (2007 – 2015, 2019)
- Martindale-Hubbell AV Preeminent® Rated, “Top Rated Lawyer in Denver”
- International Who’s Who Legal, Environmental Law







Member 2020

