



# Michael D. Klein

## Senior Counsel

Harrisburg, Washington, D.C.

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### Practice Areas

- Infrastructure
- Utility & Energy

### Industry Sectors

- Renewable Energy

### Education

- Dickinson School of Law, J.D., 1976
- King's College, B.A., *magna cum laude*, 1973

### Bar Admissions

- District of Columbia
- Pennsylvania

### Court Admissions

- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- Middle District of Pennsylvania
- U.S. Court of Appeals for the Third Circuit

### Affiliations

- Member of the American Water Works Association

### Awards & Honors

- Energy & Environment Power 100, City & State Pennsylvania, 2023
- Pennsylvania Water/Wastewater Agency Response Network Gold Star Award
- Judge James McGirr Kelly Award For Excellence
- American Water Works Association Special Recognition Award
- Martindale Hubbell rated AV® Preeminent

Michael has a national practice, spanning over 40 years, representing utilities, municipalities, corporations, and developers in a broad array of water, wastewater, and energy related matters. In the water sector, Michael is legal counsel to state chapters of a number of associations of public water suppliers. He has served as general counsel for public water suppliers in Kentucky, Maryland, Pennsylvania, Tennessee, Virginia, and West Virginia. He has significant experience in the regionalization and sale of public water and sewer facilities, and in the siting and construction of such facilities. He has also negotiated numerous management services agreements and bulk water sales and purchase agreements. He has represented clients in obtaining water allocation permits/approvals from state agencies and interstate compacts.

In the energy sector, Michael has been involved in the leasing of natural gas and oil interests. He has represented companies involved in the fracking of shale plays, including the Marcellus. He has significant experience in the permitting, siting, and construction of large energy projects, including wind farms and solar energy facilities.

With respect to project development, Michael has extensive experience in construction law, having grown-up working in his family's building supply and construction operation. Through the years, he has helped guide a broad spectrum of clients through significant construction issues and legal challenges, involving NPDES permits for storm water discharges associated with construction activities; erosion and sediment control permits; post-construction storm water management plans, land use, and eminent domain. When legal challenges to permits and other approvals issued to clients arise, Michael has the experience and knowledge to defend in negotiations and litigation, the permits and other approvals issued to his clients. Michael has years of experience litigating cases before federal and state courts, and other forums, including state environmental hearing boards, state public utility commissions, and local zoning hearing boards.

Michael writes a regular column providing water law updates for a water industry magazine, is quoted by national and international media, and is often a featured speaker at law conferences on subjects ranging from crisis communications to utility infrastructure projects, and regulatory compliance. Michael is rated by Martindale-Hubbell® as AV Preeminent, the "highest possible rating in both legal ability and ethical standards."

## Experience

Assisted Mehoopany Wind in the permitting and approvals for a 141 MW wind farm. This 88-turbine project spans 9,000 acres in four townships in Wyoming County, Pa. and is currently the largest wind facility in Pennsylvania. We served as the project's lead counsel responsible for the legal aspects of securing environmental permits, zoning, subdivision, and land development approvals. We worked in concert with the client to obtain all of the required zoning and land use approvals from the four townships and the county, and assisted with related real estate issues and represented the project on environmental permitting legal issues before the PADEP and the U.S. Fish and Wildlife Service, including protection of endangered and threatened species.

Represented the purchaser of approximately 1,800 acres at the Keystone Industrial Port Complex (now

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known as the “Keystone Trade Center”) in Bucks County, Pa. The Cozen O'Connor team advised on certain utility, real estate, and environmental aspects of the transaction. The project has been described as the largest e-commerce, logistics, and multi-model industrial project on the East Coast.

Represented a company before the Pennsylvania Environmental Hearing Board in the defense of an approval issued to it allowing the use of oil and gas well drill cuttings for the capping of a Brownfields site.

Handled water/sewer authority formation, governance, ownership, scope of powers, asset transfer, and financing issues in connection with a county water and sewer regionalization project.

Represented a water company in litigation involving the use of chloramines as a disinfectant in public drinking water.

Represented an international airport in an inverse condemnation matter.

Represented a regional water authority in the sale of its water and sewer systems to a public utility.

Represented a city in the sale of its water system to a municipal authority.

Represented wind power companies in the siting, permitting, financing, and construction of wind projects.

Represented parties involved in solar energy projects.

Represented an oil company in the formation, corporate governance, and leasing of gas and oil interests.

Represented a waste processing company in permitting and litigation challenging permits.

Represented a natural gas company in the condemnation of natural gas storage properties.

Represented a fracking sand company in the siting and permitting of a transload facility.

Represented a corporation in the negotiation of natural gas leases.

Jointly represented a city and municipal authority to create and implement plan that increased city revenues and enhanced water and municipal waste services.

Represented an energy trade association in litigation regarding consumer protection issues.

Represented an alternative energy generator in land use and other related environmental matters.

Represented a sewer utility in the acquisition of another sewer utility.

Represented a gas utility in the acquisition of a local gas distribution company.

Represented the Town of Rising Sun, Md., in the negotiation of a bulk water supply and connection agreement that will bring potable water to the Town from Pennsylvania. Also represented the town in connection with the permitting process for the pipeline, which was particularly rigorous because it is one of the few interstate water pipelines in the United States, and which became increasingly complex and high-profile in the wake of the lead-in-water crisis in Flint, Mich.

Represented Valley Forge Convention Center Partners, LP, on environmental issues, in its \$280 million sale of Pennsylvania-based Valley Forge Casino Resort to Boyd Gaming Corporation, an American gaming and hospitality company. This transaction drew on the experience of Cozen O'Connor's corporate, tax, real estate, litigation, and utility, environmental, and energy attorneys.

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Represented SUEZ Water Pennsylvania Inc. in its acquisition of the municipal water and wastewater systems of Mahoning Township, Montour County, Pa. This important strategic transaction required the team to negotiate multiple contracts and to obtain several government approvals, and the client is now poised for further regional expansion.

Handled Pennsylvania Department of Environmental Protection environmental approvals, as well as the closing of the transaction, on behalf of SUEZ Water Pennsylvania Inc. in connection with its \$9.5 million fair market value acquisition of the water and wastewater systems of Mahoning Township, Pa.

Represented SUEZ Water Pennsylvania, Inc. in its acquisition of the assets of the Kensington Water Company, a public water utility in Franklin County, Pa.

Represented a major city in the negotiation of a long term professional management services agreement for the operation of its wastewater system.

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