



Jonathan W. Kahn

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business is our signature

Profile

Jonathan Kahn practises environmental and other forms of regulatory law. He routinely represents clients on the purchase and sale and remediation of contaminated properties, mining regulation, renewable energy projects, management of natural resources, the transportation, handling and disposal of hazardous substances, environmental permitting, air and water regulation, municipal and hazardous waste management, environmental defence, environmental insurance, lender liability and other environmental matters.

Jonathan's regulatory law practice includes matters in the municipal, energy, resource planning and transportation law fields.

In 2010, Jonathan was listed as one of the 10 "most highly regarded" environmental lawyers in the world in *The International Who's Who of Environment Lawyers*, published by Law Business Research, the research partner of the International Bar Association. In addition, he is routinely recognized as a leading environmental lawyer in Canada in each of *The Canadian Legal Expert Directory*, *PLC Which Lawyer?* and *The Best Lawyers in Canada*.

Jonathan has an extensive list of appointments and professional activities. He is a former chair of the Environmental Law Section of the Ontario Bar Association and is currently vice-chair of the National Environment, Energy and Resources Law Section of the Canadian Bar Association. He is active in the leadership of the American Bar Association's Section of Environment, Energy and Resources Law and has been appointed chair of the 2011 Annual Conference on Environmental Law. He is an *ex officio* member of that section's governing council and past chair of that section's Mining Committee and International Energy and Resources Transactions Committee. Jonathan is also past chair of the Environmental Practice Group of Lex Mundi, the world's leading association of independent law firms.

Jonathan has a broad range of environmental law experience, including permitting and approvals, environmental impact assessment and public hearings relating to environmental matters, environmental aspects of transactions and brownfields redevelopment, waste management and hazardous products regulations, environmental litigation, advising on environmental aspects of a broad range of corporate transactions, and advising on public policy constitutional and international law matters relating to environmental matters. His clients have represented a variety of sectors, including in the chemical industry, mining, construction, oil and gas, transportation, general manufacturing (including heavy industry), automotive, waste management, energy, and the food and beverage industry.

Jonathan authored the Canadian chapter of *Getting the Deal Through: Environment 2008*, published by Law Business Research. He also edited *Environmental Law Alert*, a Canada Law Book newsletter, from 1991 to 1994. In addition to teaching at continuing legal education programs for the Canadian Bar Association, Jonathan has been a guest lecturer in environmental law at Osgoode Hall Law School and at York University's Schulich School of Business.

Jonathan has also instructed at various in-house environmental programs presented to clients.

Representative Matters

Permitting, Approvals and Environmental Assessments

Jonathan has worked with both the federal and provincial environmental assessment processes and has experience in permitting under a broad range of legislation, including the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Canada Transportation Act*, the *Environmental Protection Act* (Ontario), the *Conservation Authorities Act*, the *Ontario Water Resources Act*, the *Public Lands Act*, the *Lakes and Rivers Improvement Act*, the *Aggregate Resources Act*, the *Oil, Gas and Salt Resources Act*, the *Fish and Wildlife Conservation Act*, the *Niagara Escarpment Planning and Development Act*, as well as approvals under municipal planning legislation and by-laws. He has worked with clients in a range of industries, including energy, cement, chemical, food products, metals, mining, forestry and waste management in obtaining, negotiating and appealing air, water and other environmental permits and approvals. Specific examples include:

- Advising on environmental and permitting requirements for a liquefied natural gas facility
- Assisting the proponent of a waste tire incinerator project in obtaining air and waste certificates of approval
- Representing a major cement company in its air emissions permitting and appeals
- Advising the proponent of a major gas-fired electrical generation facility on environmental permitting and assessment
- Advising a regional municipality in Ontario on all aspects of its waste management planning, including environmental assessment and other permitting requirements
- Working with several pit and quarry operators in obtaining licences to operate a mine, as well as various ancillary permits and approvals
- Assisting a client in obtaining a certificate of approval for wastewater discharge for an injection system into bedrock
- Advising a municipality on their response to a cogeneration facility
- Advising on waste management permits and approvals for municipalities, private proponents and various recycling operators

Renewable Energy and CleanTech

Jonathan has been involved in a range of cleantech and renewable energy projects, including:

- Providing permitting and environmental assessment advice, and successfully resisting a judicial review application, in regards to a significant wind energy project in Ontario
- Providing permitting and environmental advice to the purchaser of a significant solar energy project in Ontario
- Advising the developer of an alternative fuels project on environmental assessment and permitting requirements

- Advising the purchaser of a wind energy project on environmental risks and liabilities
- Assisting the developer of a solar project in Ontario in addressing environmental issues

Environmental Planning and Public Hearings

Jonathan has represented a broad range of clients at public hearings before various boards and tribunals, including:

- Acting for the First Nation Chiefs of Ontario at the Walkerton Inquiry into the Safety of Ontario's Drinking Water
- Representing Dufferin Aggregates, a division of St. Lawrence Cement, in its successful Joint Board hearing on a proposal to expand one of Canada's largest dolomite quarries, which proposal included leading-edge agreements for environmental protection, rehabilitation and recreational/conservation after use
- Appearing on behalf of the Aggregate Producers Association of Ontario at the Ontario Municipal Board on the hearings relating to the aggregate and environmental policies in the Peel Region Official Plan and the Town of Caledon Official Plan
- Appearing on behalf of a major industry association at the five-year review hearings of the Niagara Escarpment Commission
- Appearing on behalf of a broad variety of corporate, municipal and individual clients before the Environmental Assessment and Appeal Boards, the Environmental Review Tribunal, the Joint Board under the *Consolidated Hearings Act*, the Ontario Municipal Board and other tribunals in respect of a wide range of environmental and resource management matters

Transactions and Brownfields Redevelopment

Jonathan routinely advises on the purchase and sale, and redevelopment of contaminated sites, and works on a regular basis with clients, consultants and government authorities on strategies for dealing with contaminated sites and the new Ontario Contaminated Sites legislation. Specific examples include:

- Acting for both lenders and its developers in respect of various redevelopments in the Toronto Port lands
- Advising the buyer of a steel manufacturer with several facilities across Canada
- Advising the purchaser of a Quebec paint manufacturer with facilities across Quebec and Ontario
- Advising on the sale of petrochemical facilities
- Advising the owner on the remediation of a site contaminated with radioactive waste
- Advising the buyer on its purchase of a cement company including properties used for the manufacture of cement, ready-mix concrete, aggregate production operations and a transport business

Waste Management and Hazardous Products

Jonathan's extensive experience includes:

- Appearing on behalf of an Ontario municipality at the Ontario Municipal Board, the Ontario Superior Court of Justice and the Ontario Divisional Court in respect of various disputes with private landfill operators
- Appearing before the Ontario Superior Court of Justice on behalf of a user of secondary wood products in a case involving the definition of "waste" under the *Environmental Protection Act*
- Acting for exporters of secondary metals on the classification of secondary metal products as "hazardous waste," and appearing in enforcement proceedings on their behalf
- Advising on a range of recycling initiatives on a broad panoply of regulatory issues
- Advising several transportation clients on the handling, storage and transportation of dangerous goods, hazardous products, and explosives
- Advising corporations in a range of industries on the storage, handling and disposal of waste, including hazardous waste

Environmental Litigation

Jonathan has represented various clients in litigation over environmental matters, including:

- Acting for a plaintiff municipality in an action to recover damages for significant contamination to the city's storm sewers and a nearby creek
- Acting for both plaintiffs and defendants in various contaminated land claims
- Acting for a municipality seeking to restrain the illegal import of waste to a local landfill
- Representing businesses in a range of industries, as well as individuals charged, with violating various environmental laws, including the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Environmental Protection Act* (Ontario), the *Ontario Water Resources Act*, the *Aggregate Resources Act*, the *Dangerous Goods Transportation Act*, the *Lakes and Rivers Improvement Act* and various municipal by-laws
- Acting for an industry association at a coroner's inquest into fatalities in an open-pit mine
- Acting for complainants, plaintiffs and defendants in various disputes regarding odour, noise and vibration issues

International Environmental Law and Government Relations

Jonathan's experience includes:

- Advising an expert panel of the Government of Ontario, which had the mandate to recommend sweeping changes to Ontario's water and wastewater regulation regime

- Appearing before the Standing Senate Committee on Fisheries to make Submissions on the *Fisheries Act*
- Advising various clients on environmental and regulatory aspects of tunnel construction in international waters, laying cable under international, federal and provincial waters, laying pipe in the Great Lakes system and building drainage facilities into various provincial water bodies
- Advising and representing multinational corporations on trans-boundary movement of hazardous waste and the implementation of the Basel Convention in Canada through the *Canadian Environmental Protection Act*
- Representing a provincial government on environmental issues arising from the privatization of various provincial assets
- advising the Ontario Aggregate Resources Trust on various contractual and public policy matters
- Negotiations with ministries and agencies on behalf of various clients on the interpretation of legislation and the obtaining of licences and permits
- Representing litigants and providing opinions on the constitutionality of various federal and provincial environmental laws
- Advising multinational corporations and delivering papers in the United States on environmental aspects of doing business in Canada

Publications

Co-author - "[Court Overturns C\\$36-Million Damages Award in Environmental Class Action](#)", Blakes Bulletin on Environmental/Class Actions, October 2011.

Co-author - "[Federal Proposal to Boost Environmental Penalties and Enforcement Tools](#)", Blakes Bulletin on Environmental Law, March 2009.

Professional Activities

Speaker - "Winning Advocacy Skills: Tips and Techniques for Appearing before an Administrative Tribunal", Canadian Bar Association Legal Conference & Expo, Halifax, N.S., Aug. 15-16, 2011.

Speaker - "When Disaster Strikes: Handling the Legal Fallout", Canadian Corporate Counsel Association Annual Conference, Halifax, N.S., August 15, 2011.

Chair - "40th Annual Conference on Environmental Law", American Bar Association Section of Environment, Energy and Resources Law, Salt Lake City, Utah, March 17-19, 2011.

Speaker - "Practice Management Tips for Environmental Lawyers", Ontario Bar Association, Toronto, Ontario, May 31, 2010.

Co-chair - "The 2010 National Environment, Energy and Resources Law Summit: A New Environment - 2010 and Beyond", The Canadian Bar Association, Montreal, Quebec, April 16-17, 2010.

Co-chair - "39th Annual Conference on Environmental Law", Section of Environment, Energy and Resources Law, American Bar Association, Salt Lake City, Utah, March 18-21, 2010.

Speaker - "Hazardous Materials Regulations", Environmental Law and Regulation Conference, The Canadian Institute, Toronto, Ontario, October 29-30, 2009.

Program Chair - "American Bar Association Environment, Energy, and Resources Law Summit", Phoenix, Arizona, September 17-20, 2008.

Speaker - "Time to Get Wasted!", CBA Annual National Environmental, Energy and Resources Law Summit, Vancouver, British Columbia, May 1-2, 2009.

Speaker - "Waste & Waste Diversion", 17th Annual Canadian Environmental Compliance Conference & Tradeshow, Toronto, Ontario, April 20-21, 2009.

Co-chair/Moderator - "38th Annual Conference on Environmental Law", Section of Environment, Energy and Resources Law, American Bar Association, Keystone, Colorado, March 12-15, 2009.

Education

Admitted to the Ontario Bar - 1988

LL.B., University of Toronto - 1986

B.A., Tufts University - 1982