



# Stephen J. Bonebrake

PARTNER

Steve is an experienced environmental lawyer, a seasoned counselor on regulatory and permitting issues, and a zealous advocate for his clients.



## Industries

[Consumer Products](#)  
[Energy & Cleantech](#)  
[Public Finance](#)

## Practices

[Complex Litigation](#)  
[Environmental](#)  
[Product Liability & Mass Torts](#)

## Education

Loyola University Chicago School of Law, JD, cum laude, Loyola University Chicago Law Journal, Member, 1992  
DePauw University, BA, 1985

## Offices

[Chicago](#)

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Steve employs a thorough understanding of environmental laws to help clients efficiently and, where needed, creatively find real-world solutions to challenging matters. Most of all, he understands that an effective outcome satisfies client business goals, not just the legal problem at hand.

Steve has extensive experience representing energy and manufacturing companies and other property owners in matters related to Clean Air Act and Clean Water Act compliance, enforcement and permitting, Superfund actions, brownfield redevelopment, plant closure and expansion matters, ash pond and landfill matters, waste disposal and transport and the environmental components of asset and stock sales.

As an accomplished advocate, Steve represents clients in a variety of environmental administrative and litigation matters. His experience includes enforcement and cost-recovery actions, toxic tort cases, rule variance, permit issuance and appeal proceedings, federal and state rulemakings, government investigations and litigation concerning the environmental elements of stock and asset purchase agreements. He knows how to win a disputed case, but he also recognizes when client needs would be better served by an agreed resolution.

## Client Work

Steve protected a power company from regulatory exposure based on the actions of a former owner of the power company's plants. The company was facing New Source Review and other Clean Air Act claims by the US Environmental Protection Agency (EPA), a state and environmental groups. The plaintiffs claimed that a prior owner of several plants now owned by his client had "modified" those plants, triggering New Source Review requirements, and that those requirements applied to and were violated by our client. The plaintiffs sought penalties and pollution controls that could have cost billions of dollars. Steve and his colleagues used novel defense arguments, making the case that New Source Review violations are one-time violations that occur only at the time of construction, and that a later owner does not, therefore, violate New Source Review requirements based upon earlier alleged modifications by a prior owner. The trial court agreed, finding that no relief may be obtained from the current owner. The appellate court

affirmed, ruling that the statute of limitations had run, which terminated any New Source Review claim. The result set a precedent that current owners cannot be held liable based on alleged modifications of a prior owner and that the passage of time may bar New Source Review claims even absent a change of ownership.

- Similar issues – and hundreds of millions of dollars – were at stake in another case where Steve was called upon to represent a power company. In this case, the company faced New Source Review and other Clean Air Act claims by EPA and several states. The plaintiffs claimed that the prior owners had modified the plant at issue and that the current operator, our client, violated the Clean Air Act by operating the plant without controls and permits allegedly required as a result of those alleged modifications. The trial court granted our motion to dismiss on all claims, agreeing that New Source Review violations occur only at the time of construction and that a current operator cannot be held liable for alleged New Source Review violations of a prior owner. An appeals court agreed, and also found that a claim for alleged failure to include New Source Review requirements in a Title V operating permit must be pressed through the administrative process, not through an enforcement action.
- Steve assists clients with ash pond and landfill matters, including strategic compliance decision-making, enforcement defense, proposed legislative analysis and support and related rulemaking actions.
- Using his broad experience, he has negotiated consent decrees and other agreements resolving New Source Review, Maximum Achievable Control Technology (MACT) standards, hazardous waste storage and release and other claims. This experience has included the successful negotiation of a federal consent decree resolving New Source Review claims, as well as the successful negotiation of Compliance Commitment Agreements to resolve various claims under the Illinois Environmental Protection Act.
- Clients trust Steve to ensure the best achievable result when facing government investigations. He has assisted clients with responding to and defending against investigations and notices of violation under various environmental statutes, including the Clean Water Act, Resource Conservation and Recovery Act (RCRA), the Clean Air Act and the Illinois Environmental Protection Act. These efforts have varied from complex responses for power companies to extensive New Source Review Section 114 investigation requests, to successful presentations to state regulators that resulted in the termination of enforcement activities.
- Steve crafted an innovative argument when his client, the owner of a contaminated property, sought to recover costs from the property's prior owner, who had caused the contamination. The case involved the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Through motions, Steve asserted that his client had a valid defense to any CERCLA counterclaim by the prior owner because the title to the property had been obtained through a tax deed, and under Illinois law a tax deed does not establish a contractual relationship with the prior owner. Steve's novel approach won the day, leading to a settlement on very favorable grounds for his client.
- Steve has been the lead lawyer on numerous Title V permit appeals in Illinois and Indiana. This includes representing power company permittees in connection with more than 15 Title V permit appeals in Illinois, involving extensive negotiations with the Illinois EPA concerning permit changes required to resolve those appeals.
- Steve has helped clients obtain water, air and other permits and regulatory relief, including a Prevention of Significant Deterioration (PSD) permit for a manufacturing client, Title 5 permits for various major emission sources and rule variances for power companies.
- Steve advocates for individual clients or client groups in various federal and state rulemaking processes. In one such matter, Steve obtained a court order for a group of clients that prohibited the Illinois Pollution Control Board and the Illinois EPA from proceeding with a rulemaking on a "fast track" basis. As a result, his clients had more time and an equitable opportunity to present their views and arguments in the rulemaking process.

## **Boards, Memberships & Certifications**

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- American Bar Association
- Illinois State Bar Association

## **Publications, Presentations & Recognitions**

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### **Publications**

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## Mastering the Complexities of Air Law

### Presentations

- Panel presentation regarding major NSR court decisions, ISBA conference (2015)
- “Coal on the Run?” (co-presenter) 19th Annual FERC Briefing, Chicago, Ill. (Jun. 13, 2013)
- Panel presentation regarding the Mercury Emission Cap and Trade Program, ELI Congressional Briefing Series (Apr. 2007)

### Recognitions

- Best Lawyers in America, *Best Lawyers* (2013-2014, 2016-2024)
- *Chambers USA* – Environment: Litigation, Illinois (2010-2021); Environment, Illinois (2008-2009)
- Illinois Leading Lawyer, Law Bulletin’s *Illinois Leading Lawyers Network* (2011-2021)

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## Bar Admissions

Illinois

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## Court Admissions

US Court of Appeals, 7th Circuit  
US Court of Appeals, District of Columbia Circuit  
US District Court, Northern District of Illinois  
US District Court, Northern District of Indiana  
US District Court, Eastern District of Wisconsin