

Gordon R. Smith

Counsel

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"Gordon Smith comes recommended for his work with renewables clients on development and permitting matters, as well as handling environmental litigation. Clients are impressed with his ability to 'think deeply and not superficially.'"

—*Chambers USA 2017*

Gordon brings together legal experience and a results-oriented, commonsense approach to provide clients with regulatory solutions, court victories, and strategic advice on a range of environmental and land use issues. Gordon fights to achieve sane and beneficial outcomes for his clients, allowing them to do what they want to do on their property. Gordon heads up the firm's Coastal and Shoreland Group and co-chairs the firm's Appellate Practice Group.

His practice includes particular experience in:

- Resolution of land use issues and real estate disputes
- Shoreland and coastal land use issues
- Renewable energy development
- Infrastructure permitting, financing, and operation
- Federal and state wildlife protection statutes
- Civil, administrative, and appellate litigation related to environmental, land use, and real estate disputes in state and federal courts

In the words of one litigation client:

"I worked with Gordon Smith on a landmark case involving property rights. This case was 15 years in the making and quite complex, involving science, history, property law, economics, and very old legal cases. I have worked with other lawyers in the past, and my stomach would be in a knot walking into their office. Working with Gordon, on the other hand, has been a great experience. He is patient, compassionate, incredibly smart (he quickly picks up on information outside his own field), and he is a great listener. He works efficiently, not wasting time or money, but thoroughly. He sees a path to the correct strategy and pursues it with integrity. **If I ever have another legal matter for which I need help, I will**

Services/Industries

- Environmental & Land Use
- Energy
- Judicial Appeals—Energy
- Wind
- Real Estate Litigation
- Coastal & Shoreland
- Appellate
- Solar
- Telecommunications
- Cannabis

run, not walk, to his office and hope he has time to take it on."

Gordon also counsels developers on the best ways to navigate the regulatory process in order to get projects built. In particular, Gordon has represented wind and solar power developers in all phases of project development, from land acquisition to obtaining local, state, and federal permits to supporting project finance and successfully defending projects against litigation in state and federal courts.

In the words of one wind power client:

"Gordy has helped us develop multiple grid-scale wind energy projects over the course of almost a decade. I always appreciate Gordy's counsel. Permitting strategy can be tricky, and he has continually guided us in the right direction time and time again. Legal experience aside, Gordy is naturally very intelligent and pragmatic. He often points out nuances that would probably be overlooked by most people, and this talent is especially useful when it comes to strategic planning. In addition, when a project has not been getting the attention it needed, Gordy has jumped in and acted as a de facto project manager. Gordy's great on the ground too—I have seen him calmly diffuse irate opponents at public meetings on multiple occasions. **The bottom line: Gordy has played a crucial role in getting our projects built and operational and has been an essential member of our permitting team for years.**"

Gordon serves as an adjunct professor at the University of Maine School of Law, where he has taught real estate transactions and land use law.

When not practicing law, Gordon likes to do house carpentry, landscape, play tennis, hike, bike, ski, grill, and sip whiskey. Gordon is lucky enough to go home to his wonderful wife, daughter, and son, and the trusty house cat Scout, who is also known as Cuddles.

Education

- Georgetown University (J.D.)
- University of California, Berkeley (B.A.)

Public Service

- Volunteer Attorney, Maine Homeless Legal Project
- *Pro Bono* Legal Counsel Provider, The Nature Conservancy

Bar Admissions

- Maine

Honors

- Recognized in *Chambers USA: America's Leading Lawyers for Business* under Environment
- Listed in *The Best Lawyers in America*® under Environmental Law, Land Use and Zoning Law, Litigation - Environmental
- Selected by peers for inclusion in *New England Rising Stars*® under

To learn more about third-party ratings and rankings, and the selection processes used for inclusion, [click here](#).

Court and Other Admissions

- U.S. District Court for the District of Maine
- U.S. Court of Appeals for the First Circuit

Blog Posts: Environmental and Energy Law Update

The Environmental and Energy Law Update blog provides an analysis and discussion of the most critical and timely legal issues and announcements environmental, natural resource, and energy sectors.

April 21, 2022

Intertidal Court Victory for Property Rights, Marine Conservation, and Public Participation

The Maine Superior Court has dismissed all claims against five intertidal landowners represented by Verrill in *Masucci v. Judy's Moody, LLC*. The landowners had been sued because they contacted Maine Marine Patrol to report the illegal removal of...

April 19, 2022

NextEra Subsidiary Fined \$8 Million under MBTA for Eagle Deaths at Wind Power Projects in Western U.S.

The U.S. Department of Justice announced that ESI Energy LLC (ESI), a wholly owned subsidiary of Nextera Energy Resources LLC, pleaded guilty to violating the Migratory Bird Treaty Act (MBTA) and acknowledged at least 150 deaths of bald and...

December 3, 2021

Incidental Take of Migratory Birds Prohibited Once Again as New MBTA Rule Becomes Effective

A U.S. Fish and Wildlife Service ("FWS") final rule that presumptively reinstates liability for incidental take under the Migratory Bird Treaty Act ("MBTA") becomes effective on December 3. The new rule revokes a Trump-era regulation that had limited the...

May 14, 2021

Verrill Attorney Gordon Smith Comments on Lawsuit Claiming Ownership of Maine Coastal Property

A group of beachgoers and seaweed harvesters have filed a new lawsuit against several Maine coastal property owners, attempting to overturn centuries of private ownership of intertidal land. The plaintiffs in the lawsuit are pitching the

unsupported idea that...

July 21, 2020

Verrill Helps State's Largest Solar Project Obtain Principal Environmental Permit

The 100-megawatt Three Rivers Solar Project in Hancock County, Maine has obtained its combined Site Law and Natural Resources Protection Act permit from the Maine Department of Environmental Protection. Three Rivers Solar will become the largest solar project in...

April 8, 2019

Maine Supreme Court Decides Seaweed Is a Plant, Not a Fish

After deliberating for a year and a half in *Ross v. Acadian Seaplants*, the Maine Supreme Judicial Court has unanimously held that rockweed, a type of seaweed that grows on rocks in the intertidal area all over the...

August 8, 2016

D.C. Circuit Flips USFWS for Issuing ITP to Ohio Wind Power Project with 6 M/S Cut-in Speed

The U.S. Court of Appeals for the D.C. Circuit has invalidated the issuance by the U.S. Fish and Wildlife Service (USFWS) of an incidental take permit (ITP) under Section 10 of the Endangered Species Act for take of Indiana...

July 6, 2016

D.C. Circuit Remands BOEM Cape Wind Lease under NEPA and ESA, Punts on MBTA Challenge

The U.S. Court of Appeals for the D.C. Circuit has dealt another setback to the Cape Wind offshore wind power project by holding yesterday in *Public Employees for Environmental Responsibilities v. Hopper* that the Bureau of Ocean Energy Management...

January 13, 2016

USFWS Issues Expansive Final 4(d) Rule for Northern Long-Eared Bat

U.S. Fish & Wildlife Service (USFWS) issued its final rule under section 4(d) of the Endangered Species Act regarding conservation measures for the northern long-eared bat (the "Final 4(d) Rule"). The Final 4(d) Rule replaces the interim 4(d) rule...

December 16, 2015

WOTUS Rule Saga Gets Weirder with EPA "Covert Propaganda"

The EPA rule attempting to clarify the scope of Clean Water Act jurisdiction took another gut punch when the Government Accountability Office found that the EPA's use of social media in connection with its rulemaking violated anti-lobbying laws...

September 16, 2015

EPA and States Locked in Funhouse Litigation over WOTUS Rule

Eighteen states that are suing the EPA and the Army Corps of Engineers to block the regulation attempting to identify jurisdictional waters of the United States under the Clean Water Act have filed a motion for a preliminary injunction...

August 28, 2015

EPA WOTUS Rule Takes Effect in Most States - Or Does It?

The rule enacted by the EPA and the Army Corps of Engineers intended to clarify the scope of jurisdictional waters of the United States (often referred to as the WOTUS Rule or Clean Water Rule) was set to take...

August 13, 2015

30-Year BGEPA Take Permit Invalidated by Federal District Court

The U.S. District Court for the Northern District of California on Tuesday struck down a U.S. Fish and Wildlife Service regulation allowing issuance of 30-year take permits under the Bald and Golden Eagle Protection Act. The court's holding is...

June 24, 2015

USFWS Explores MBTA Incidental Take Permit

The U.S. Fish and Wildlife Service has announced that it is looking into the creation of an incidental take permitting program under the Migratory Bird Treaty Act. Currently the regulations under the MBTA only authorize incidental take for hunting...

May 29, 2015

Three Bat Species Listed Under Maine Endangered Species Act

Upon recommendation from the Maine Department of Inland Fisheries and Wildlife, Governor Paul LePage signed a bill into law today listing three bat species under the Maine Endangered Species Act. The little brown bat and northern long-eared bat were...

May 27, 2015

EPA and Corps Release Clean Water Rule in Attempt to Clarify Jurisdictional Waters for 404 Permits

The EPA and the U.S. Army Corps of Engineers today released a new rule attempting to clarify the scope of jurisdictional "waters of the United States" under the Clean Water Act. Work that takes place in waters of the...

May 6, 2015

News Flash: Wind Power Reduces Carbon, Other Harmful Emissions

A report released this week finds that wind power plays a significant role in reducing carbon and other harmful emissions in the state of Maine by displacing energy generation from traditional power plants. The study, conducted by Massachusetts-based consulting...

April 24, 2015

Energy Infrastructure Gets Regional, National and Global Attention

Energy infrastructure is all the rage these days. Earlier this week the White House released its inaugural Quadrennial Energy Review, which "examines how to modernize our nation's energy infrastructure to promote economic competitiveness, energy security and environmental responsibility."

April 15, 2015

Halleluja: The Clean, Green Renewable Future Is Upon Us!!!

The American Wind Energy Association released its annual market report for 2014 today. As expected, most of the report's findings are quite positive, with "more

wind power capacity under construction at the end of 2014 than at the end...

April 7, 2015

New Misguided Opponent of Renewables: Famous Novelist Jonathan Franzen

Author Jonathan Franzen In a lapse of fact checking and logic, the normally rigorous New Yorker magazine published a lengthy essay by noted novelist and bird watcher Jonathan Franzen that, among other things, called wind and solar power "blights..."

April 6, 2015

New Misguided Opponent of Renewables: Famous Novelist Jonathan Franzen

In a lapse of fact checking and logic, the normally rigorous New Yorker magazine published a lengthy essay by noted novelist and bird watcher Jonathan Franzen that, among other things, called wind and solar power "blights on the landscape"...

April 2, 2015

USFWS Lists Northern Long Eared Bat as Threatened Species

The U.S. Fish and Wildlife Service announced that it will publish a final rule in today's Federal Register designating the northern long eared bat as threatened under the Endangered Species Act. The listing will become effective May 4, 2015...

April 1, 2015

USFWS Lists Northern Long Eared Bat as Threatened Species

The U.S. Fish and Wildlife Service announced today that it will publish a final rule in the April 2, 2015 Federal Register designating the northern long eared bat as threatened under the Endangered Species Act. The listing will become...

March 24, 2015

Maine High Court to Litigious Saco RV Park Owner: Let There Be Frisbee Golf

To the delight of Frisbee golfers across southern Maine, the Maine Supreme Court has affirmed the Saco Planning Board's approval of a Frisbee golf course in *Fitanides v. City of Saco*. Fred Fitanides, who owns an RV park that...

March 24, 2015

BOEM Reviews Lease Request for Floating Wind Turbines off Hawaii

The U.S. Bureau of Ocean Energy Management is in the process of reviewing a lease request submitted by AW Hawaii Wind, LLC for two proposed 408 MW offshore wind power facilities, each consisting of 51 floating 8 MW turbines...

March 20, 2015

D.C. District Court Sides with USFWS on Indiana Bat ITP Issued to Ohio Everpower Project

The U.S. District Court in Washington, D.C. granted summary judgment on Wednesday to the U.S. Fish and Wildlife Service in a suit challenging the issuance of an incidental take permit to an Ohio wind power project for impacts

to...

March 12, 2015

USFWS, Congress Explore Incidental Take Exemption Under MBTA

The U.S. Fish and Wildlife Service is reportedly planning to issue a notice of intent to create an incidental take permitting regime under the Migratory Bird Treaty Act. The permitting scheme would theoretically allow otherwise lawful activities to go...

March 12, 2015

DOE Says 35% of U.S. Electricity Can Be Generated by Wind Power by 2050

The U.S. Department of Energy released an in-depth analysis today entitled Wind Vision: A New Era for Wind Power in the United States . The report models various scenarios of wind power penetration into the U.S. energy market and...

March 11, 2015

USFWS, Congress Explore Incidental Take Exemption Under MBTA

The U.S. Fish and Wildlife Service is reportedly planning to issue a notice of intent to create an incidental take permitting regime under the Migratory Bird Treaty Act. The permitting scheme would theoretically allow otherwise lawful activities to go...

March 5, 2015

First U.S. Offshore Wind Power Project Will Likely Be Deepwater Wind's Block Island Facility

Providence, Rhode Island-based Deepwater Wind announced this week that it has secured \$290 million in financing needed to construct its five-turbine, 30-megawatt Block Island Wind Farm. Deepwater expects to begin placing turbines in the water this summer with commercial...

February 23, 2015

U.S. District Court Grants Summary Judgment to SunEdison's Oakfield Wind Power Project on All Counts

In an order issued Friday in Protect Our Lakes v. U.S. Army Corps of Engineers , No. 1:13-cv-402 (D. Me. Feb. 20, 2015), U.S. District Court Judge Jon Levy rejected claims that the U.S. Army Corps of Engineers' issuance...

January 16, 2015

USFWS Proposes Take Exemptions If Northern Long-Eared Bat is Listed as Threatened under ESA

The U.S. Fish and Wildlife Service (USFWS) has proposed a rule that would exempt certain activities in certain locations from the prohibitions of the Endangered Species Act (ESA) if the northern long-eared bat (NLEB) is listed as a threatened...

January 9, 2015

USFWS Enforces MBTA Against Wind Power For Second Time

A pair of Wyoming wind power projects has pleaded guilty to violating the Migratory Bird Treaty Act (MBTA) and agreed to pay fines that add up to \$2.5 million. The U.S. Fish and Wildlife Service (USFWS) and the Department...

January 9, 2015

Cacophony of Opinions as Law Court Attempts to Clarify Appeal Deadlines

In a decision that included a majority opinion, a concurrence, and two separate dissents, the Maine Supreme Court struggled mightily to establish the deadline for opponents of a wind power project to appeal an approval issued by the Town...