



# Joan E. Drake Shareholder

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## Related Practices

Energy, Environment and Natural Resources

Cultural and Historic Resources

Energy

Environment

Mining

Oil and Gas

Pipelines and Transmission

Public Lands

Renewable Energy

Utilities and Infrastructure

Water Rights and Water Quality

Native American Law

Energy and Resources

## Related Industries

Business in Indian Country

Energy

Mining

Railroads

## Case Stories

Regulatory obstacles overcome for successful oil pipeline approval

## OVERVIEW

Joan Drake has assisted clients for nearly twenty years as a lawyer on utility regulation and environmental permitting matters.

In utility matters, Joan represents clients on matters involving state and federal regulation of electric and gas utility rates and service, facility siting, wholesale and retail sales, utility acquisition, renewable energy and Qualifying Facilities ("QF"), electric transmission and interconnection, gas pipelines, power purchase and service agreements, and energy efficiency. In addition to representing clients on individual matters before the New Mexico Public Regulation Commission ("PRC"), Joan monitors and updates her clients on regulatory and legislative developments of interest to energy, utility, and transmission companies doing business in New Mexico and throughout the West.

Joan also assists clients with regulatory compliance, litigation strategy, and defense of Environmental Assessments, Environmental Impact Statements, and the NEPA process; Section 404 Clean Water compliance, including Nationwide Permits, Individual Permits, mitigation, and enforcement; and compliance with related environmental laws, including the endangered Species Act and National Historic Preservation Act.

Prior to her legal career, Joan was an environmental regulatory specialist with the U.S. Army Corps of Engineers in Los Angeles and New England, and has many years of experience implementing federal environmental laws, including NEPA, the Clean Water Act, and other related laws. Joan's experience at the Corps focused on large and controversial projects and enforcement matters. Joan offers clients the unique perspective of both a seasoned regulator and a knowledgeable lawyer.

In 2017, she was recognized by *Best Lawyers in America*® in Energy Regulatory Law. Joan presents frequently on environmental law and regulatory issues. She currently serves as Chair of the Utility Service Group and Co-Chair of the Renewable Energy Service Group.

## Education

University of New Mexico School of Law, J.D., 2001, *magna cum laude*, Natural Resources Law Certificate; Order of the Coif; Honorable Pete Domenici Award for Environmental Excellence; Administrative Editor Natural Resources Journal, 1998-2001

University of California at Los Angeles, M.A., 1980, *magna cum laude*

University of California at Berkeley, B.A., 1976, *magna cum laude*



### Bar Admissions

New Mexico

U.S. Court of Appeals for the Tenth Circuit

U.S. District Court for the District of New Mexico

## EXPERIENCE

### Federal Environmental Regulation

- Representation of regional utilities and independent transmission developers on Federal permitting and NEPA issues regarding siting of transmission facilities.
- Representation of major industrial customers, such as mid-stream pipeline companies, mining companies, oil and gas developers, and railroads on Federal permitting and NEPA issues

### State Utility and PRC Regulation

- Representation of wholesale generation and transmission company in rate cases and related investigations before the New Mexico PRC, Federal district court and Tenth Circuit
- Representation of natural gas public utility before the PRC
- Representation of electric utility customers on rate and service matters before the PRC
- Representation of fuel and generation suppliers to electric public utilities regarding PRC matters
- Representation of a provider of midstream energy services on jurisdictional issues before the PRC
- Representation of a municipal power agency on wholesale contract issues in electric utility cases before the PRC
- Representation of independent power producers in obtaining location approval
- Representation before the PRC on water utility acquisition, line extension, service, and rate issues

### Renewable Energy

- Representation of renewable energy and transmission developers on state regulatory and legislative issues, Renewable Portfolio Standards, PPA approval, location control, eminent domain, and coordination with the PRC
- Representation of distributed generation companies and customers on state regulation of third party developers and arrangements with utilities
- Representation of renewable energy developers on interconnection, transmission, and QF matters and Federal Energy Regulatory Commission (“FERC”) regulation

### Energy Transactions

- Representation of energy companies, financial companies, and customers on power purchase agreements, service agreements, regulatory and environmental due diligence, financial transactions, and regulation of purchases and sales

## ACTIVITIES



- Immediate Past Chair of the Board, New Mexico First
- Rocky Mountain Mineral Law Foundation, Trustee, 2015-2017; Co-Chair, Special Institute on NEPA, 2010
- Energy Bar Association, Board Member, 2012-2014
- American Bar Association, Chair, Environmental Impact Assessment Committee, 2008-2009; Vice-Chair, Newsletter, 2005-2008
- State Bar of New Mexico

## NEWS & ARTICLES

### Alerts

#### **The U.S. Supreme Court Confirms You Can Challenge the Corps' Clean Water Act Jurisdictional Determination Without First Going Through a Permit or Enforcement Process**

Posted on June 9, 2016 By Joan E. Drake

### News

#### **Modrall Sperling Attorneys Recognized by Best Lawyers® 2019**

Posted on August 15, 2018 By Daniel Schueler

### Articles

#### **Executive Order on the Clean Water Rule**

May 18, 2017

By Joan E. Drake

#### **Executive Order Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects**

May 12, 2017

By Joan E. Drake

#### **Tule Wind Farm Passes NEPA Test, Again**

March 30, 2017

By Deana M. Bennett and Joan E. Drake

#### **The FAST Act Seeks to Expedite Multi-Agency NEPA Compliance for Large Infrastructure Projects**

May 11, 2016

By Joan E. Drake

#### **Can You Challenge the Corps' Clean Water Act Jurisdictional Determinations Without First Going Through the Permit Process?**

December 15, 2015

By Joan E. Drake

#### **The Clean Water Rule: Troubled Waters Ahead for the EPA and Corps**

November 13, 2015

By Deana M. Bennett and Joan E. Drake

#### **Federal District Court Upholds Uranium Mining Within a Traditional Cultural Property Without Further NEPA Review and With Abbreviated NHPA Consultation**

June 4, 2015



By [Joan E. Drake](#)

**Colorado District Court Requires Coal Mine EIS to Estimate the “Social Cost of Carbon”**

July 3, 2014

By [Deana M. Bennett](#), [Joan E. Drake](#) and [Walter E. Stern](#)

## DISCOURSE

### Presentations

- Process and Practice Tips for U. S. Army Corps of Engineers Administrative Appeals, *Rocky Mountain Mineral Law Foundation Special Institute on Challenging and Defending Federal Natural Resource Agency Decisions*, Westminster, CO, September 14, 2016
- Clean Water Act Rulemaking: What is a Water of the US?, *Energy Bar Association Rocky Mountain Chapter Annual Meeting*, Denver, Colorado, June 20, 2014
- FERC Order 1000: Transmission and the Continuing Challenge of Matching Generation to Load, *10th Annual Energy In the Southwest*, Law Seminars International, Santa Fe, New Mexico, July 15-16, 2013
- The Least Environmentally Damaging Practicable Alternative Under the Section 404(b)(1) Guidelines – What it Means, How you Comply, and How it is Related to NEPA Alternatives, *Rocky Mountain Mineral Law Foundation Special Institute on Federal Regulation of Cultural Resources, Wildlife, and Waters of the U.S.*, April 27, 2012

## HONORS

- *Best Lawyers in America*®, Energy Regulatory Law, 2017-present
- Commander’s Award, U. S. Army Corps of Engineers, 1994
- Bronze Medal, U.S. Environmental Protection Agency, 1990