

Attorney Profiles

Practice Areas

- Climate Change and Sustainability
- Environmental
- Energy and Project Finance
- Litigation

Education

- Yale Law School
J.D. 1979
- Yale University
M.F.S. 1979
- Swarthmore College
B.A. 1975

Admitted To Practice

- U.S. Supreme Court
- Pennsylvania Supreme Court
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the District of Colorado



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Robert B. McKinstry, Jr., is partner-in-Charge of the Climate Change and Sustainability Initiative, and is also a partner in the firm's Environmental Group and Energy and Project Finance Group. He rejoined the firm in 2007 after a six-year term as the Maurice K. Goddard Chair in Forestry and Environmental Resources Conservation in the Pennsylvania State University School of Forest Resources. He co-founded Ballard Spahr's Environmental Group and, before his appointment to the Goddard Chair, co-chaired that group. He has also taught climate change and other environmental law topics at Penn State as an adjunct professor of law.

As the Goddard Professor, Mr. McKinstry focused on the roles of state and local governments and private organizations in addressing global environmental issues, including climate change, biodiversity conservation, and sustainable development. He has also focused on enterprising or market-based approaches to environmental regulation. Although his practice spans the full range of environmental areas, he has focused his practice particularly on issues relating to climate change and the other areas of his focus while serving as the Goddard Professor.

Mr. McKinstry was counsel of record representing (with several co-counsel) a group of 18 of the leading climate-change scientists who submitted *amicus* briefs to the U.S. Supreme Court supporting petitioners in *Massachusetts v. EPA*, where the court reversed the EPA's refusal to regulate greenhouse gas emissions under the Clean Air Act. He serves as a Senior Advisor for the Center for Climate Strategies and served the general counsel to Carbon Trap Technologies, LLP, a start-up company developing a proprietary process for chemical sequestration of carbon dioxide emissions.

Apart from his pro bono work in *Massachusetts v. EPA*, Mr. McKinstry brought the first wetlands citizens suit on behalf of a fish, game, and wildlife association. He has also represented a variety of citizen groups pro bono in solid waste-related litigation and has assisted nonprofit groups in connection with their formation and mergers.

Mr. McKinstry has written and spoken extensively on environmental topics before academic, professional, and industry groups. He is the editor of the *Biodiversity*

Conservation Handbook: State, Local, and Private Protection of Biological Diversity (ELI 2006), and he has authored numerous published articles on climate-change law, biodiversity and land conservation law, market-based mechanisms for environmental regulation, habitat banking, ecosystem restoration practices and federal lands, municipal waste regulation, environmental audits, site remediation, wetlands regulation, and coastal zone management.

Mr. McKinstry is a member of the Section on Environmental, Energy and Resources (SEER) of the American Bar Association, where he is Vice Chair of the SEER Committee on Climate Change, Sustainable Development, and Ecosystems. He is also a member of the Environmental, Mineral and Natural Resources Law Section of the Pennsylvania Bar Association, and a founding member of the Environmental Law Committee of the Chester County Bar Association. He is a Master in the Delaware Valley Environmental Inn of Court. He is a Chair of the Climate Change and Energy Committee of the Pennsylvania Environmental Resources Consortium.

Mr. McKinstry co-chaired the Montgomery County (Pennsylvania) Blue Ribbon Panel on Climate Change and continues to serve on the County's Advisory Committee on Climate Change. He is also a member of the Steering Committee of the Chester County (Pennsylvania) Greenhouse Gas Task Force. He has served on both the PADCNR Ecosystem Management Advisory Committee and the PADCNR Carbon Management Advisory Group.

He is currently a director of the Pennsylvania Environmental Council and is a director and a past President of the Pennsylvania Resources Council. In the recent past, he has served on the Boards of the Pennsylvania Chapter of The Nature Conservancy, Westtown School, the Pennsylvania Institute for Conservation Education, the Clearwater Conservancy, and the Children's Country Week Association, and served as Chair of the East Bradford Township Environmental Committee.

Mr. McKinstry is recognized by *Chambers USA: America's Leading Lawyers for Business* as a leader in the field of environment in the 2008 through 2010 editions and in the area of climate change in 2009 and 2010 (nationwide ranking in 2010). He appears in the 2009 through 2011 editions of *The Best Lawyers in America* for environmental law. In April 2010, he was recognized with the Pennsylvania Bar Association Environment and Energy Law Section's 2010 Award for Distinguished Service to the Profession, for his "extensive academic and professional work and scholarship in the field of environmental law, climate change, and sustainable development."

Mr. McKinstry is a graduate of Swarthmore College (B.A., with honors, 1975), where he was elected to Phi Beta Kappa; the Yale School of Forestry and Environmental Studies (M.F.S. 1979); and Yale University Law School (J.D. 1979). He served as law clerk to the Honorable James L. Latchum, then Chief Judge for the U.S. District Court for the District of Delaware. He is admitted to practice in Pennsylvania (1979).

Selected Articles and Publications

- Co-author, “Making the States Full Partners in a National Climate Change Effort: A Necessary Element for Sustainable Economic Development,” *Environmental Law Reporter News & Analysis*, 40 *E.L.R.*, June 2010
- Co-author, “The New Climate World: Achieving Economic Efficiency In a Federal System for Greenhouse Gas Control Through State Planning Combined with Federal Programs,” 34 *N.C. J. Intl & Commercial Ret.* 102, 2009
- Co-author, “Developing a Comprehensive Approach to Climate Change Mitigation Policy in the United States: Integrating Levels of Government and Economic Sectors,” *Environmental Law and Policy Annual Review*, 39 *E.L.R.*, 2009
- “Energy Projects Make Sense,” *The Arizona Republic*, March 21, 2009
- Co-author, “Federal Climate Change Legislation As If the States Matter,” 22 *Nat’l Res. & Env.* No. 3 at 3, 2008
- Co-author, “EBA Climate Change Primer: Financing a Renewable Energy Project,” 29 *Energy L.J.* 195, 2008
- Co-author, “Developing a Comprehensive Approach to Climate Change Mitigation Policy in the United States: Integrating Levels of Government and Economic Sectors,” 26 *U. Va. Envtl L.J.* 227, 2008
- Co-author, “The Implications of the New ‘Old’ Federalism in Climate Change Legislation: How to Function in a Global Marketplace When States Take the Lead,” 20 *PAC. McGeorge Global Bus. & Dev. J.* 61, 2007
- Contributing author, “White Paper On The Ethical Dimensions Of Climate Change,” The Pennsylvania State University Rock Ethics Institute, 2006

- “Putting the Market to Work for Conservation: The Evolving Use of Market-Based Mechanisms to Achieve Environmental Improvement in and Across Multiple Media,” 14 *Penn State Envtl L.R.* 151, 2006
- Co-author, “Incentive-Based Approaches to Greenhouse Gas Mitigation in Pennsylvania: Protecting the Environment and Promoting Fiscal Reform,” 14 *Widener L.J.* 205, 2004
- “Local Solutions for Global Problems: The Debate over Causes and Effects of Climate Change and Emerging Mitigation Strategies for States, Localities and Private Parties,” 12 *Penn St. Envtl. L. Rev.* 1, 2004

Testimony Before Legislatures

- Participation on Capital Hill on climate change recommendations in a forum based on the selection by the Environmental Law Institute and Vanderbilt Law School of the best environmental policy publications of 2008 and 2009
- Testimony to the North Carolina Climate Control Commission, 2008
- “Why State Climate Change Programs Matter,” Testimony to the House Environmental Resources and Energy Committee, 2005
- Presentation of Environmental Priorities to the Rendell Administration Joint Conservation Committee of the Pennsylvania General Assembly, 2003