

Environmental

Chair & Contacts

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We provide sophisticated, business-oriented environmental counseling across a wide range of transactional, regulatory, and litigation matters to help clients manage environmental risks and liabilities, obtain environmental permits, comply with technical regulatory schemes, appeal and defend administrative actions, and seek judicial remedies.

Overview

Businesses are subject to an increasingly complex array of federal, state, and local environmental laws, regulations, permit requirements, administrative policies, and judicial interpretations. Post & Schell's Environmental Practice Group collaborates with clients nationally and internationally to identify, understand, and successfully navigate the environmental laws and regulatory programs that impact their businesses. We provide sophisticated, business-oriented environmental counseling across a wide range of transactional, regulatory, and litigation matters to help clients manage environmental risks and liabilities, obtain environmental permits, comply with technical regulatory schemes, appeal and defend administrative actions, and seek judicial remedies.

Post & Schell's Environmental Practice Group serves a national and international client base that includes:

- Private Equity, Venture Capital, and Investment Funds
- Real Estate Developers, Investors, and Lenders
- Municipalities
- Public Transportation Authorities
- Hotel and Resort Owners and Operators
- Commercial Construction Companies
- Energy Producers and Distributors
- Health Care Facilities and Systems
- Industrial and Manufacturing Companies

Legal services provided by the Environmental Practice Group include:

- Pre-acquisition environmental diligence, asset analysis, and risk evaluation in real estate and corporate transactions.
- Negotiation of complex agreements allocating environmental and regulatory risks and liabilities associated with the acquisition and divestiture of real estate and corporate entities.
- Environmental permitting, auditing, and regulatory compliance counseling.
- Brownfield remediation and redevelopment counseling.
- Spill and crisis response and remediation.
- Environmental health and safety matters.
- Structuring of specialized insurance lines addressing environmental liabilities.
- Development of comprehensive risk management and tailored environmental insurance programs.
- Administrative hearings, appeals, and related representations before state and federal regulatory bodies.

- Defense of regulatory violations and enforcement proceedings.
- Cost recovery and toxic tort litigation, trial, and appellate practice.
- Serve as special solicitors for municipalities and municipal authorities, representing their interests in matters including Act 101 and the Clean Water Act.
- In conjunction with the **Internal Investigations & White Collar Defense Group**, counsel clients who may be subject to criminal investigations under state and federal environmental laws and provide defense at trial if necessary.
- In conjunction with the **Energy & Utilities Group**, advise and represent utility and municipal clients on issues of joint jurisdiction by the state public utility commission and the state department of environmental protection, including water quality and reliability, renewable and alternative energy, conservation initiatives, and cost recovery in rates for mandated improvements.

Recent Representative Experience:

Transactional Matters:

- Represented national real estate investment funds in over 50 commercial real estate acquisitions in Tier-1 Gateway markets in 2013. Our work focused on the identification of potential environmental risks, the evaluation of regulatory compliance obligations, the allocation of environmental liabilities among parties, and the development of comprehensive risk management and environmental insurance programs.
- Negotiated comprehensive environmental insurance programs for several real estate investment funds' portfolios, insuring more than 100 real estate assets with each. Our work included evaluating and providing comments to policy proposals from a number of carriers, and manuscripting unique endorsements to reflect the clients' protocols and acquisition and divestiture objectives.
- Advised investors on requirements to qualify for brownfield remediation tax credits in Massachusetts and New York. We assisted in developing appropriate scopes of work, oversaw the implementation of remediation as required to satisfy applicable regulatory cleanup programs, and prepared related documentation as necessary to obtain and monetize the accompanying tax credits.
- Structured and negotiated guaranteed fixed price remediation contracts for contaminated redevelopment sites in New Jersey and California.
- Negotiated the transfer of continuing environmental investigation and remediation obligations in connection with the sale of a former industrial facility in southern New Jersey.
- Negotiated the allocation of environmental liabilities and remediation obligations in connection with the acquisition and redevelopment of a Superfund Site in Silicon Valley, CA.
- Negotiated complex remediation agreements among multiple investors in connection with the largest-ever commercial real estate development project in Arizona, built partially on a historic unregulated landfill. Our work included negotiating environmental insurance endorsements to schedule remediation agreements and cover excess remediation costs in connection with construction.
- Negotiated access, remediation and indemnity agreements with several large petroleum companies to address legacy gas station contamination on sites owned by clients.
- Advised investors and developers on the acquisition, remediation, and redevelopment of military BRAC sites outside of Boston, MA, and in Orange County, CA. Our work involved structuring environmental provisions in purchase and sale, indemnity, access and remediation agreements to ensure that requisite investigations and remediation were completed as necessary for development, and we negotiated comprehensive environmental insurance programs to manage unforeseen environmental remediation obligations arising during construction.
- Counseled clients regarding regulatory compliance matters and potential environmental risks and liabilities involved with acquisitions and mergers of multi-national companies in the petroleum, rubber, aerospace, agricultural, pharmaceutical, electrical generation, and technical manufacturing industries.

Regulatory Counseling:

- Advised property owners and tenants regarding applicable regulatory requirements, and negotiated contracts, for asbestos abatement projects in connection with the renovation of historic commercial buildings in Austin, TX, and residential conversion projects in New York and Philadelphia.
- Counseled owners and operators and oversaw the investigation and remediation of a legionella bacteria outbreak in the water system of a major New York City hotel, under Department of Health oversight.
- Counseled investors and developers regarding applicable remediation requirements in connection with infill development at numerous little "e" designated sites in Manhattan and Brooklyn, NY.
- Negotiated contracts and oversaw the investigation and remediation of major mold outbreaks in two resort hotels in Hawaii stemming from construction defects.

- Advised building owners regarding regulatory and industry standards for building restoration after wet weather/flooding events in lower Manhattan and along the Potomac River waterfront in Washington, D.C. We negotiated related contracts, and oversaw the investigation, remediation and close-out reporting as necessary to satisfy lenders and tenants, and sell the assets without adverse impact on value. Counseled developers of numerous Pennsylvania sites regarding investigation and remediation requirements to obtain liability relief under Act 2. Our work involved drafting and recording related UECA Environmental Covenants where required.
- Advised resort owner in Pennsylvania regarding regulatory requirements associated with on-site water treatment facilities and in obtaining necessary discharge permits.
- Counseled numerous real estate purchasers regarding remediation obligations and requirements for regulatory closure under property transfer programs in Connecticut (Transfer Act) and New Jersey (ISRA).
- Advised property owner in Connecticut regarding the assumption of remediation obligations and associated regulatory requirements associated with legacy contamination from former General Motors production facility.
- Served as municipal counsel for a southern New Jersey city in connection with the investigation and cleanup of legacy groundwater contamination caused by historic industrial tenants. Obtained significant insurance recovery for the city.
- Advised an importer and exporter of industrial chemicals to and from the U.S., Japan, and Mexico of applicable requirements and notification procedures under the Toxic Substances Control Act (TSCA).
- Advised major industrial manufacturing client regarding facility decommissioning and related environmental investigation and remediation requirements in Ohio.
- Advised numerous clients regarding environmental investigation and remediation requirements under voluntary cleanup programs in New York, Pennsylvania, the District of Columbia, Virginia, Ohio, Michigan, Texas, Arizona, and California.

Administrative Appeals & Litigation:

- Defended against an agency enforcement action and prosecuted an administrative appeal in connection with the illicit abandonment of solid waste by a former tenant at an industrial facility in central New Jersey.
- Defended client in enforcement proceedings related to alleged environmental and fire code violations at a metals recycling facility in Los Angeles, CA. Negotiated with agency officials as necessary to achieve compliance and avoid facility shutdown.
- Defended and settled enforcement action from Newark, NJ, Department of Housing against landlord stemming from major release of heating oil from an underground storage tank.
- Defended and appealed toxic tort lawsuits, third-party suits seeking to negate or alter permits, and "citizen suits" brought by private parties seeking to impose penalties.