

SERVICE

Environmental



ATTORNEYS

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Posternak's environmental attorneys provide a complete range of environmental services, from acquisitions, through permitting, penalty negotiations, and remediation cost recovery actions.

We are routinely relied upon during the course of real estate and corporate transactions, to identify, mitigate and/or transfer environmental risks in a manner that advances and promotes closing by employing indemnities, escrows, environmental insurance, Brownfields Covenants Not To Sue, and the fixed cost/liability transfer approach to remediation.

Our permitting and enforcement experience is both broad and deep, covering Superfund; the Resource Conservation and Recovery Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Emergency Planning and Community Right to Know Act; the National Environmental Policy Act; the Wetlands Protection Act; Chapter 91- the Waterways Act; the Massachusetts Environmental Policy Act; landfill, construction recycling and solid waste site assignments; landfill closures; Conservation Commission bylaws; M.G.L. c. 21E, 21A and the Tank Fund law, M.G.L. c. 21J; and many other environmental statutes and regulations. Our enforcement work is not limited to defense of clients, we have prosecuted bought citizen suit claims for violations of environmental statutes and regulations.

We have worked with many clients in determining responsibility for the release of hazardous substances, prosecuting and defending remediation cost-recovery and contribution claims and negotiating settlements culminating in the clean-up of hazardous waste sites.

EXPERIENCE

- Obtained a multi-million dollar settlement for environmental contamination that occurred over many years as the result of undetected leaks in a fuel oil piping system.
- Conducted a tri-party negotiation of a long-term lease of a contaminated property with

ongoing remediation actions where the original property owner was responsible for the remediation and our client's landlord was the original owner's ground lessee. As executed, our client's business operations are insulated from the effects of both the contamination and the remedial action.

- Significantly reduced the penalty assessed to a residential developer by the US EPA for violations of the Clean Water Act, specifically erosion and siltation impacts.
- Local counsel in the defense of a Federal lawsuit brought to close an electric generation facility for violations of the Clean Air Act.
- Provided due diligence and transactional consultation for the purchase of waste oil transfer facilities and for the transfer of RCRA Part B permits for environmental processing companies.
- Successfully reduced the penalty assessed to a manufacturing company for violations of the Resource Conservation and Recovery Act.
- Assisted property owners, tenants, construction companies and disposal companies charged with violations of the state regulations pertaining to the assessment, containment and disposal of asbestos.
- Provided services to the owners of automobile scrap yards who were charged with violations of the solid waste regulations, negotiated settlements with the Department of Environmental Protection and provided strategic counseling for the renovation and re-use of the facilities after closure.
- Represented the owner of a 100-unit apartment complex in negotiating a Consent Order with the Massachusetts Department of Environmental Protection permitting the consolidation of multiple septic systems into a consolidated wastewater treatment system.
- Obtain Orders of Conditions for construction of retail and residential projects under the Wetlands Protection Act and local wetlands bylaws.
- Obtained a reduced replication requirement for a property owner charged with wetlands fill.
- Represented many clients in negotiating advantageous Superfund settlements with the Environmental Protection Agency and performing parties groups.
- Assisted a client in the purchaser of a brownfields site for redevelopment and facilitated the mitigation of the environmental risks attendant thereto.
- Successfully represented an oil company in defense of a claim brought by a residential purchaser for pre-existing oil contamination.
- Routinely obtain wastewater treatment permits and obtain approval for the transfer of those permits.