



# Environmental

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## OVERVIEW

Adler Pollock & Sheehan's Environmental Group understands the complex, difficult and multi-faceted issues faced by individuals and businesses when dealing with environmental laws and regulations.

We represent businesses in numerous multi-party federal and state hazardous waste/Superfund and solid waste litigation, and in toxic tort litigation. We provide creative solutions to defend your business in litigation, or to proactively assist you in securing effective compliance advice or project permits. We advise and help you to manage complicated environmental insurance and liability issues in your real estate and corporate transactions. We have a proven reputation in the region, and our attorneys bring a rare combination of established regulatory relationships and experience to address the full spectrum of legal issues you face when dealing with environmental law matters.

## Areas of Concentration

- Environmental litigation / Superfund / Toxic torts
- Regulatory compliance and counseling
- Environmental permitting for air, waste, water quality and other natural resources
- Real estate, land use and business transactions
- Environmental insurance and coverage disputes
- Energy, renewable energy and climate change
- Green construction, Brownfield projects and historic redevelopment of properties

## REPRESENTATIVE MATTERS

- Handled a number of key environmental issues for the O'Neill Property Group,

which were central to the development of a former heavy industrial site and former U.S. Navy property along the Sakonnet River in Portsmouth, R.I. (near Newport, R.I.). These projects included: (1) the development of the Hood/Melville 1,500 slip marina (the largest along the East Coast); (2) a unique golf resort, equestrian center and a 156-unit, high-end residential community, known as the Carnegie Abbey Residences and Towers; and (3) the development of 30+ stand-alone multimillion-dollar coastal homes along with a 21-story rehabilitated condo tower (the former Kaiser Aluminum plant) with a 41-slip marina for its residents. The environmental issues for these multi-faceted coastal projects ranged from hazardous waste removal and remediation to land planning and innovative coastal regulatory change. The multi-year permitting of the project was shortened and the life of the project itself saved by our ability to work with various federal and state regulatory agencies, and a local university, to create a unique land-use approach, rehabilitating the distressed area into a world-class resort community. This completed project demonstrates our ability to work within a very complex regulatory and planning scenario and bring a large-scale coastal project to completion in very short timeframe.

- Represented CME Energy, LLC and Hecate Energy LLC as part of a solar energy development team in a first-of-its-kind successful solar energy public-private partnership project with the City of East Providence, R.I. This project focused on the development of a 10 MW distributed solar generation project as part of the capping of the former Forbes Street municipal landfill in East Providence, R.I. AP&S secured necessary zoning changes, wetlands and storm water permitting, solid and hazardous waste landfill closure compliance, and an innovative arrangement for the reuse of many tons of soils obtained from a highway renovation project. We also assisted the agencies with crafting the rules and policies required for the development of more clean, sustainable energy projects on municipal landfills throughout the region.
- Represented the developer of Essex River Venture Richmond Sq., a 30+ unit Brownfield residential rehabilitation project, the very first to be permitted under a pioneering urban coastal greenway regulatory scheme. AP&S guided the project through several state and federal programs from Brownfield rehabilitation and tax credits through zoning and siting under these new regulations.
- Represent a large national retail chain in the development of a nationwide program to identify special regulatory requirements for the disposal and recycling of consumer products in each state. This first-of-a-kind approach by an environmentally proactive client will allow store associates to scan each of the 500,000+ products found on the store shelves to determine proper disposal and handling of each product under state hazardous and solid-waste laws, in the event the product needs to be disposed of or recycled due to spills, leaks, returns and other events.

- Defended Brown University as one of the defendants in an appeal brought by neighbors under the National Environmental Policy Act (NEPA) seeking to reverse NASA and Department of Energy grants for a new \$90 million life-sciences building. AP&S argued that the building was not a “major federal action” within NEPA’s scope, and the United States District Court for the District of Rhode Island agreed.
- Represent plaintiff Unilever Bestfoods in its attempt to recover expenditures in connection with contamination at a Rhode Island Superfund site. Since 2001, the plaintiffs have successfully settled with more than 30 defendants and are proceeding with litigation against remaining non-settlers.
- Represented the Rhode Island Resource Recovery Corporation (RIRRC) in a landfill permitting dispute with the Rhode Island Department of Environmental Management (RIDEM) involving jurisdiction. The court granted partial summary judgment for our client, ruling that RIDEM could not require the RIRRC to obtain a state permit for remediation conducted entirely on site.
- Represent an insurer, Providence Washington Insurance Company, in the Centredale Manor CERCLA Superfund litigation that is pending in the U.S. District Court for the District of Rhode Island. The cleanup and remediation are estimated to cost over \$100 million.
- Negotiated a successful settlement of a civil enforcement action brought by the Rhode Island Department of Environmental Management arising from the shipment of alleged hazardous materials without a permit. The matter also involved allegations that the waste materials were not exempt under federal and state law. The case raised unique issues concerning the definition of recyclable materials under the Resource and Conservation Recovery Act. The settlement resulted in a substantial reduction of proposed fines and penalties with a modest payment by the client and removal of the materials at issue.
- Draft and negotiate complex environmental indemnity and guaranty agreements for multi-million dollar commercial lending transactions for substantial development projects.

## SEMINARS / PUBLICATIONS

### Publications

- Brian R. Birke, Contributing Author, 3rd edition of *Brownfields: A Comprehensive Guide to Redeveloping Contaminated Property* – American Bar Association.
- Andrew C. Spacone, Co-author, *Policies and Procedures for Controlling Environmental Liability*, *Individual Liability under Environmental Laws, Hazardous Waste Management*, Summer 1993.
- Andrew C. Spacone, *Environmental Law and A Company Environmental*

Program, Hazardous Waste Management, Spring 1993.

AWARDS

**U.S. News–Best Lawyers**

Rated Tier 1 Metropolitan “Best Law Firm” by U.S. News-Best Lawyer.

