



## ENVIRONMENTAL LAW

In a state noted for its strict and pace-setting environmental laws, Riker Danzig's Environmental Law Group is among the largest and most diverse practices of its kind. The group has been consistently ranked in the top tiers of *Chambers USA* since the publication's inception and in "Band One" since 2010. The Guide quotes sources as saying, "they are excellent attorneys - they have attention to detail but also provide immediate practical advice" and a "very good firm - they are one of the leaders in the state." *Chambers* describes the group as a "superb environmental group with a focus on New Jersey remediation programs" and "also adept at handling Superfund, natural resource damage and multiparty cost recovery litigation." Earlier *Chambers* editions have called the group "a first port of call for many matters," the publication notes the group's "tremendous reputation" and "deep expertise in the full range of environmental work." Clients interviewed by *Chambers* have said "their responsiveness, attention to detail, business judgment, and expertise are second to none" and "I can't think of a better firm to work with." Our Environmental Law Group also has consistently been placed in Tier I for New Jersey firms in the *U.S. News and World Report-Best Lawyers* "Best Law Firms" rankings since the inaugural issue in 2010. See [Awards and Honors Methodology](#).

*No aspect of this advertisement has been approved by the Supreme Court of New Jersey.*

Our diverse client base includes publicly and privately held companies ranging in size from multinational Fortune 50 corporations to family-owned small businesses, real estate developers, lending institutions, state, municipal and other governmental entities and individuals. Our group regularly handles matters involving:

- [Environmental Litigation](#)
- [Environmental Risks in Business and Real Estate Transactions/Financing](#)
- [Site Remediation and the Licensed Site Remediation Professional \(LSRP\) Program](#)
- [Brownfields Redevelopment](#)
- [Development and Operational Permitting, Compliance and Enforcement Defense](#)
- [Solid and Hazardous Waste Management](#)
- [Environmental Insurance](#)

- [Energy](#)
- [Air Quality and Indoor Air](#)

## **Environmental Litigation**

Our environmental attorneys are seasoned litigators with extensive experience handling complex environmental cases in federal, State and administrative courts. Our group has litigated claims involving CERCLA, RCRA, New Jersey Spill Act, TSCA, Clean Water Act, ISRA, Clean Air Act, wetlands, wastewater, solid waste, natural resource damages, renewable energy, pipelines, insurance coverage and criminal environmental enforcement. Many times, our attorneys engage in alternative dispute resolution procedures (e.g., arbitration and mediation) in an attempt to resolve environmental disputes in lieu of litigation.

Sometimes litigation is unavoidable. In those instances, we approach the many facets of litigation, including discovery, motion practice and ultimately trial, with a streamlined, efficient and effective plan, reducing both the stress level of our clients and the cost of litigation.

We have routinely represented clients in cases involving:

- Claims to recover costs incurred in remediating contaminated sites by and against the government and/or private parties
- Diminution in value and stigma damages resulting from environmental contamination
- Natural resource damage (NRD) claims asserted by federal and state trustees
- Contract claims regarding responsibility for contamination, including landlord and tenant disputes over contaminated property
- Environmental enforcement actions by the federal, State and local government authorities
- Insurance coverage for cleanup costs and costs incurred in defending environmental actions
- Complaints filed with the LSRP Board (Site Remediation Professional Licensing Board)
- Criminal enforcement involving alleged non-compliance with environmental laws

Back to [top](#).

## **Environmental Risks in Business & Real Estate Transactions/Financing**

Our environmental attorneys represent clients in all types of transactions, including the buying and selling, refinancing and redevelopment of real property, as well as corporate asset and stock transactions. We know how

to identify and pragmatically assess the risks and liabilities in transactions and how to structure deals to achieve our clients' objectives.

We routinely provide advice to our clients in the following areas:

- Conducting and assessing environmental due diligence
- Drafting purchase and sale documents, loan documents and leases to include the appropriate protections, including representations, warranties and indemnities
- The applicability of and compliance with New Jersey's unique transfer statute, the Industrial Site Recovery Act (ISRA)
- In conjunction with the client's environmental consultants, evaluating and strategizing to reduce environmental exposure
- Advising lenders and borrowers on environmental matters arising from default and foreclosure, including lender liability protection under federal and State law
- The transfer, modification and application of permits and approvals from governmental authorities to address operational and construction issues

Back to [top](#).

## **Site Remediation and the LSRP Program**

Our environmental attorneys know site remediation. We have addressed site remediation and environmental clean-up under evolving state and federal laws and regulations over the past thirty-five years, including CERCLA, RCRA, SRRRA, NJ Spill Act, ISRA, UST, the "Tech Regs" and other regulatory programs. Our deep knowledge and experience allows us to assist our clients in finding creative and cost-efficient ways to navigate the complex investigation, reporting, funding, and compliance and enforcement issues associated with site remediation.

Our attorneys also have been instrumental in developing New Jersey site remediation law including the LSRP program. We have professional relationships with numerous environmental consultants and federal and State regulators, which allows us to keep abreast of the most current legislative and regulatory developments, garner insight into the approaches that will best serve our clients and manage emerging issues, such as vapor intrusion, unregulated contaminants and post-remediation monitoring and re-openers. Our site remediation clients run the gamut from large industrial and publicly-traded companies to smaller business interests and individual property owners. Our versatility, relationships and experience allow us to take on any representation and to assemble an appropriate team to address a client's particular needs. The breadth of our experience in this area also extends to

representing LSRPs in licensing, complaint investigation and disciplinary matters before the Site Remediation Professional Licensing Board.

Back to [top](#).

## **Brownfields Redevelopment**

Bringing a redevelopment project to fruition typically requires expertise in diverse environmental programs. Our attorneys are skilled at working with redevelopment teams and using their specialized knowledge to successfully complete these complex projects. We assist our clients in every stage of brownfield redevelopment – from acquisition and financing to remediation and development. We participate in the planning, negotiating, permitting, funding, remediating, constructing, insuring, tenancing and maintaining of brownfield projects.

Our brownfields clients include parties conducting remediation and property owners, large and small urban and industrial site redevelopers, private equity and venture capital firms and municipalities or municipal economic development agencies looking to turn environmentally impacted properties into viable commercial, residential and mixed-use communities. Our experience allows us to be flexible and creative in addressing the needs of each individualized project and our professional relationships with developers, environmental consultants, engineers, architects, lenders, insurance brokers and underwriters, and local, state and federal government regulators allow us to serve our clients' interests and keep projects moving apace. Given our decades of experience working on numerous brownfields redevelopment projects, Riker Danzig is optimally suited to assist clients in cleaning up and redeveloping environmentally impaired properties.

Back to [top](#).

## **Development and Operational Permitting, Compliance and Enforcement Defense**

In an effort to protect its natural resources as well as promote smart development within the state, New Jersey has established numerous programs that require developers and others to obtain land use permitting approvals. Our attorneys understand these programs and have significant experience in addressing the many different issues that inevitably arise during the permit process. We regularly assist our clients in obtaining various state, federal and local permits and approvals for coastal, waterfront and wetlands development, stream encroachment/flood hazard, and tidelands areas. We are also adept at navigating the complex interplay between land use regulations and site remediation to find cost-efficient and practical solutions to issues arising from these often conflicting programs.

Our attorneys also are experienced in obtaining and advising our clients about compliance with complex operational permits, including those for solid waste, hazardous waste and landfills, ground water, surface water and stormwater discharges (e.g., NJPDES and NPDES), sewage connections and treatment, air emissions and recycling. This versatile knowledge and experience allows us to effectively interact and negotiate with federal, state and local regulators to best serve our clients' needs.

Our attorneys routinely advise clients on regulatory compliance with permits and agency requirements. We also are experienced in defending administrative enforcement actions, orders and notices of violation. We effectively and efficiently advise clients on how to respond to the agencies and to defend such actions in administrative and civil courts. We routinely negotiate significant reductions in assessed penalties and have developed creative responses to enforcement, e.g., Supplemental Environmental Projects (SEPs), to reduce penalties for non-compliance and meet client objectives.

Back to [top](#).

## **Solid and Hazardous Waste Management**

Our environmental attorneys routinely counsel clients regarding the management, storage, transportation and disposal of solid waste and hazardous waste under the Resource Conservation and Recovery Act (RCRA), the state Solid Waste Management Act and similar statutes. We have also advised clients in the industrial, commercial and retail sectors on how best to manage regulated medical waste, pharmaceutical waste, universal waste, polychlorinated biphenyls (PCBs) subject to the Toxic Substances Control Act (TSCA), used oil and fats, oil and grease (FOG). In addition to advising clients in efforts to achieve compliance, we assist them in responding to and defending notices of violation from state or federal government agencies and in litigating claims involving RCRA and other waste management laws. We frequently assist clients to procure and contract for solid and hazardous waste management services.

In addition to waste generators, we also represent companies engaged in the business of solid or hazardous waste disposal in New Jersey with respect to the complex licensing and permitting requirements. We assist our clients in obtaining the required permits and licenses for the brokering, collection, transportation and disposal of solid and hazardous waste as well as permitting and compliance obligations triggered by the siting or expansion of waste facilities and business operations. Our attorneys are well versed in negotiating the integrity review process referred to as an "A-901" license required to engage in the solid and hazardous waste business in New Jersey. We also defend clients in administrative proceedings where the NJDEP has claimed an alleged failure to obtain the required

regulatory permission to engage in the solid and hazardous waste industry.

We also assist recycling companies, composters, utilities and others with solid and hazardous waste recycling and reclamation. Our attorneys have advised clients and negotiated agreements to provide for recycling and secondary markets for industrial wastes that otherwise would be destined for disposal. Our work has included assisting recycling centers to obtain and comply with the myriad regulations and permits applicable to these operators.

Back to [top](#).

## **Environmental Insurance**

Our environmental attorneys have advised and litigated on behalf of our policyholder clients in the environmental insurance coverage area as part and parcel of assisting clients in managing their environmental liabilities. We routinely advise clients on procuring “new” environmental insurance policies to address known and unknown risks. We have experience negotiating the terms of these environmental policies to craft solutions to specific problems, which can allow for disputes to be settled and transactions to occur. We are also experienced in the claims process under the policies to obtain coverage for the covered risks. Our attorneys have spearheaded many successful insurance claims for environmental liabilities, including site remediation costs, under older general liability policies. While our initial emphasis is to resolve these claims through negotiated settlements, our attorneys have successfully litigated to obtain coverage.

Back to [top](#).

## **Energy**

The energy industry is among the most heavily regulated industries when it comes to environmental issues. Our attorneys advise energy companies and others in the industry on a broad array of existing and emerging environmental issues, concerning project development and finance, transactions, regulatory compliance, litigation and enforcement. Our clients have included utilities and independent power producers, renewable energy companies, oil and gas companies, retail suppliers and other industry participants.

We routinely practice at the cutting edge of energy issues, renewables, sustainability and climate change regulation and have extensive experience litigating and defending complex government enforcement actions against energy companies. We have defended utility, waste-to-energy, petroleum product, and renewables companies on notices of violation, administrative orders, and civil penalty assessments on a variety of air-emission matters, many involving

“bet-the-company” issues or facility shut-down. Our attorneys excel at finding creative legal and practical solutions to resolve these enforcement matters. Our work also has included successfully challenging application of state regulations to the siting and development of electric transmission and distribution facilities.

Back to [top](#).

## **Air Quality and Indoor Air**

Our environmental attorneys are experienced in assisting clients with many aspects of state and federal air permitting, from obtaining state Subchapter 8 and federal Title V approvals to procuring renewals, modifications, variances and waivers. We also counsel our clients with regard to identifying and interpreting applicable regulatory requirements and defending against governmental enforcement actions. We have garnered much success by finding novel ways to negotiate reduced risk and penalties in settlements for alleged non-compliance.

Additionally, our environmental attorneys have handled numerous cases involving indoor air issues from contaminants such as mold and asbestos. We have also addressed disputes between landlords and tenants over indoor air concerns. In the context of site remediation, our attorneys routinely consider and implement strategies to manage indoor vapor intrusion arising from subsurface contamination, including what sampling and mitigation measures may be required. As such, we are poised to assist clients in navigating the cumbersome regulatory regime regarding indoor air contaminants and vapor intrusion and defend clients when a regulatory agency or private entity takes action involving contaminants in indoor air.

Back to [top](#).

Headquarters Plaza, One Speedwell Avenue, Morristown, New Jersey 07962-1981 • t: 973.538.0800 f: 973.538.1984

50 West State Street, Suite 1010, Trenton, New Jersey 08608-1220 • t: 609.396.2121 f: 609.396.4578

500 Fifth Avenue, New York, New York 10110 • t: 212.302.6574 f: 212.302.6628

399 Knollwood Road, Suite 201, White Plains, NY 10603 • t: 914.539.3360 f: 914.539.3361

1200 Summer Street, Suite 201C, Stamford, CT 06905 • t: 203.326.6740 f: 914.539.3361

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