

Environmental

Areas of Expertise

Environmental & Land Use Legislation & Agency Rulemaking

Environmental and land use policy decisions directly affect our clients. Our attorneys understand the intricacies of both existing environmental and land use laws and the legislative process. Whether seeking to advance a client's own bills or respond to bills proposed by others, we develop an overall strategy to achieve favorable legislative results.

This may involve counseling a client through the legislative process, actively working with legislators and legislative committees, and forming coalitions. We also represent clients in rulemakings conducted at the national and state levels, including under the Superfund Law, the Clean Air Act, the Clean Water Act, the Federal Power Act, the Safe Drinking Water Act, and state air, natural resource, water, solid waste, land use, and superfund laws.

ENVIRONMENTAL & LAND USE LEGISLATION & AGENCY RULEMAKING EXPERIENCE

- **AECOM Water Team USAID Water and Development IDIQ Project**
- **Coalition in Federal Rulemaking**
- **Creative Approaches to Cluster Rule Compliance for Maine Paper Mill**
- **Creative Approaches to Cluster Rule Compliance for Midwest Paper Mill**
- **Development of Template for Municipal Stormwater Compliance**
- **Gulf of Maine Research Institute Zoning Amendment**

State and International Trade Organization in Federal Rulemaking

- **State Greenhouse Gas Legislation and Rulemaking**
- **State Trade Association Environmental and Health and Safety Issues**
- **State Trade Association Environmental, Tax, and Antitrust Issues**

Environmental Counseling

Project Planning & Strategic Advice

- We counsel clients beginning with initial identification of the issues and formulation of a permitting team and strategy, through agency negotiations and public administrative hearings and, if necessary, in administrative and judicial appeals.

Environmental Management & Audits

- We assist clients in developing and implementing management systems to ensure that personnel are knowledgeable about environmental matters, seek continually to achieve compliance, and will respond properly in the event of any noncompliance.

We have developed a program of environmental audits for clients who desire a legal review of their operations and practices to determine compliance with federal and state laws. This program includes procedures, checklists, information requests, and letters that are designed to allow us to efficiently review legal compliance and make recommendations.

If a regulatory agency initiates an enforcement action, we help clients obtain an efficient and effective resolution.

Waste Management

- Everyday commercial and residential activity generates waste. The management of this waste is highly regulated and often scrutinized by the public and third-party groups. We routinely assist clients that manage waste, whether solid or hazardous, with facility permitting, compliance, and, when necessary, defense of their permits.

ENVIRONMENTAL COUNSELING EXPERIENCE

- **Boatyard in Response to EPA Information Request**
- **Egg Farm Environmental Issue Spotting at Multiple Sites**

- **Settlement in Wastewater Enforcement Matter**
- **State Trade Association Environmental and Health and Safety Issues**
- **State Trade Association Environmental, Tax, and Antitrust Issues**
- **Stormwater Utility District**
- **VOC Emission Reduction Credits**

Environmental Litigation & Administrative Appeals

Administrative Appeals

Projects requiring environmental permits are closely scrutinized by regulators and often by other interested parties. We represent our clients in all types of administrative and judicial appeals to both challenge and defend agency decisions. While the goal is always to achieve the desired result without litigation, our lawyers have the expertise and experience to advise clients during the agency process on ways to improve the odds of success on appeal, such as by building an adequate record during the permitting process and preserving legal arguments that pay dividends later in court.

Superfund & Environmental Cleanup

We advise private parties on Superfund liabilities (and how to avoid them, where possible), and have done so since Superfund was enacted in 1980. Over this period we have addressed, and continue to address, Superfund sites of all sizes on behalf of clients whose potential liability range from being one Potentially Responsible Party (PRP) at a multi-million dollar site to *de minimis* parties. In addition to counseling clients on strategies for limiting their liabilities, when necessary, we have actively litigated Superfund matters in New England and elsewhere.

Toxic Torts

Our environmental attorneys successfully team with members of our Litigation Practice Group to defend toxic tort claims. Our toxic tort claims work includes:

- **Defense of MtBE manufacturers:** Represented major U.S. MtBE manufacturers in successfully defeating class certification and individual suits initiated by well owners alleging widespread MtBE contamination of groundwater. Represented the same parties on administrative claims, as well as statutory and common law actions in

both state and federal court, including the First Circuit Court of Appeals, arising from alleged leaking underground storage facilities.

- **Defense of CERCLA and RCRA claims:** Defend against allegations of air releases and groundwater contamination from various types of operating and formerly operating manufacturing facilities. For example, represented a former owner of hazardous substance site against CERCLA cost recovery, RCRA claims, and common law toxic tort claims arising from state demands for remediation of coal tar at former manufactured gas plant site.
- **Defense of lead paint manufacturer:** Represented Glidden successor Millennium Holdings in securing the reversal of a multi-billion dollar "public nuisance" verdict in Rhode Island.
- **Defense of mill:** Represented pulp mill owner and operator in defense of cases brought by Baron & Budd alleging liability for a "cancer cluster" attributed by Plaintiffs' experts to solid waste, water, and air emissions from the mill and its landfill. Case settled on terms favorable to the mill owner and operator after depositions of Plaintiffs' experts

Landfill Zoning

- **Lincoln Pulp and Paper in Successful CERCLA Defense**
- **Manufactured Gas Plan Cost-Recovery Action**
- **Manufacturing Facilities in Air Emissions Compliance**
- **Municipal Discharger NPDES Permit Appeal**
- **Nestlé Waters North America Successful Defense of Challenges to State and Local Permits**
- **Patriot Renewables Successful Defense of Maine DEP Permit**
- **Penobscot Bay YMCA Land Use Permits**
- **Pierce Atwood's Tribal Water Quality Jurisdiction Victory**
- **RCRA Corrective Action Sites**
- **Saco River Textile Mill Defense of Private Party Cost-Recovery Action**
- **Sappi Resolution to Fish Passage Requirements**

Wastewater Discharge Licensees in NPDES Permitting Matter

Environmental Transactions

Contaminated or potentially contaminated properties present risks and opportunities. We work with both buyers and sellers to identify and minimize the former and maximize the latter. We have experience providing a range of services associated with contaminated property and brownfields redevelopment, including:

- Analyzing and resolving liabilities among multiple parties
- Conducting due diligence and all appropriate inquiry assessments
- Drafting and negotiating environmental covenants
- Managing consultants and cleanup
- Recovering investigation and remedial expenses
- Defending and resolving government claims for liability and windfall liens

Also, in Maine we have guided many clients through the VRAP program and successfully secured liability protections under State law.

Finally, not all real estate and business deals involve contaminated property. We regularly work with buyers and sellers to perform environmental due diligence and to coordinate the transfer of existing permits with federal and state regulatory agencies.

ENVIRONMENTAL TRANSACTIONS EXPERIENCE

- athenahealth in Operations Center Permit Transfer
- Environmental Matters in Refinancing of Paper Mills
- Erickson Retirement Communities Corporate Conference Center Permitting and Acquisition
- Expansion and Development of Ski Resorts
- Expera Specialty Solutions Acquisition of Maine's Old Town Mill
- Hydroelectric Facility Acquisition
- Long-Term Lease for Wind Power Project
- Maine Investment Properties in Property Acquisitions and Permitting

- **Unitil Negotiation of Environmental Liability Allocation**
- **Verso Paper Transfer of Hydroelectric Projects**

Permitting - Federal, State & Local

Air Emissions & Wastewater

We routinely represent businesses with air emissions and wastewater discharge permitting. This includes licensing new sources and helping existing facilities with license renewals or modifications associated with the integration of new technologies. We also counsel numerous municipalities and municipal water and sewer districts on permitting issues.

Land Use Developments

We are experienced in the permitting of projects under state and federal air, water, natural resource, wetland, land use, and hazardous waste statutes. Many members of our Environmental Practice Group also are members of our interdisciplinary Land Use Team. These attorneys regularly work with clients to obtain all the municipal permits required for a project, including zoning, subdivision, site plan, wetland, and shoreland approvals. Visit our Land Use practice page for more information.

Renewable Energy Projects

We work with clients, whether utilities, private businesses, or developers, to bring their energy projects to life. When a project is still in the conceptual stage, our environmental attorneys partner with members of our Business, Energy, and Tax groups to help clients finance their energy projects. Successful completion of a project often requires understanding both the environmental laws and regulations and the political influences that affect how a project proceeds through the permitting process. In some cases, we work with clients to amend the law or local ordinances so their projects may proceed.

For projects previously developed and already operational, we assist clients with permit compliance and license renewals and modifications. For example, we have experience helping owners of hydropower projects address fish passage and endangered species issues, achieve desired results in complex stakeholder negotiations as part of FERC licensing, and obtain state water quality certifications. When a project's useful life comes to an end, we also assist with license surrender and decommissioning. Visit our Energy, Utilities, and Renewables page for more information.

PERMITTING - FEDERAL, STATE & LOCAL EXPERIENCE

- **Agriculture Association in Pesticide Application Permit**
- **Calpine Acquisition of Fore River Generating Station**

Irving Forest Products Prompt Turnaround on Environmental Permits

- **Kenetech Wind Power Permitting**
- **Land Use Approvals for Bates Boat House**
- **Licensing for Thermogen Pellet Manufacturing**
- **Licensing New Tissue Machines**
- **Louisiana-Pacific Permits for Biomass Heating**
- **Maine Manufacturer of Compressed Natural Gas in Permitting Matters**
- **Manufacturing Facilities in Oil to Natural Gas Permits**
- **Mercy Hospital Fore River Campus Permitting Matters**
- **Municipality in Integrated Permit Proceedings**
- **New Biomass Boilers to Generate Electricity for Greenhouses**
- **NEWSME Solid Waste Landfill Licensing**
- **NextEra Proceedings Before State Environmental Agency**
- **Opponents of McPherson Timberlands**
- **Paper Mill Permits for Construction of New Machine**
- **Paper Mill Permits for Machine Rebuild**
- **Penobscot Bay YMCA Land Use Permits**
- **Permits for New Home Improvement Store**
- **Permitting for CNG Facility**

Permitting Gas-fired Power Plants in Maine

- Permitting of Greenfield Gas-Fired Electric Generation Facility
- Permitting Under Natural Resources Protection Act
- Petroleum Storage Facility in NHDES Enforcement Action
- Pulp and Paper Facilities Waste Discharge Licensing
- Rezoning & Permitting of Medical Office Building
- S.D. Warren Emission Reduction Credits
- S.D. Warren Utilization of Alternative Fuels
- Sappi Environmental Permits to Rebuild Paper Coater
- Solid Waste Transfer Station and Processing Facility Licensing
- Spring Water Bottling Facilities Permitting
- Stormwater Permitting in Long Creek Watershed
- Successful Appeal of Subdivision Development
- Successful Defense of Permits for Metal Recycling Facility
- Superfund Group in USEPA & NHDES Compliance Issues
- Transfer of Closure Order for Landfill
- Waste-to-Energy Facility on Permitting Matters
- Water Quality Certification for Hydropower Project
- Wetland Permitting for Mixed-Use Commercial Development

Product Regulation & Chemical Safety

- **PRACTICE LEADERS**

- ▶ Matthew D. Manahan

VIEW ALL PROFESSIONALS ▶

Since the inception of our environmental practice in 1970, Pierce Atwood's environmental attorneys have worked with businesses, individuals, and government regulators to shape, understand, and navigate the developing regulatory landscape. Our Environmental Practice Group lawyers are adept at strategic thinking to formulate solutions that reduce costs while ensuring legal compliance and environmental protection. As members of project teams, our environmental attorneys offer an intimate knowledge of state and federal environmental processes, including access to key government personnel at all levels, based on relationships developed over several decades.

Our Environmental Practice Group lawyers focus on individual areas of environmental law such as air, water, wetlands, solid waste, hazardous waste, contaminated property, and development permitting. As a result, our law firm offers exceptional breadth and depth of practice, allowing us to match specific experience with clients' particular needs. Our Environmental attorneys also work closely with members of our Admiralty & Maritime, Energy, Government Relations, Land Use, and Real Estate practice groups, as well as our Business and Tax groups to identify financial incentives to reduce compliance costs.

We are also pleased to announce our new ENViromation Center, an online and mobile-friendly way to access a variety of checklists and resources for many of the different environmental laws and regulations in New England. See for yourself how these free smart tools can help get you through some of the toughest situations.

Follow our Environmental Group attorneys on Twitter for news and updates.

ENVIRONMENTAL EXPERIENCE

- **\$1.5 Billion CMP Maine Power Reliability Program**
- **AECOM Water Team USAID Water and Development IDIQ Project**
- **Agriculture Association in Pesticide Application Permit**
- **athenahealth in Operations Center Permit Transfer**
- **Bath Iron Works in Dredging and Dredge Disposal Permits**
- **Berwick Iron Permits to Expand Metal Recycling Facility**
- **Biomass Facilities in Regulatory Challenge To Allocation of RECs in Rhode Island**
- **Boatyard in Response to EPA Information Request**
- **Boatyards in EPA Compliance Investigations**
- **Brookfield Renewable Power in Ripogenus and Penobscot Mills Matters**
- **Brookfield Renewable Power in Storage Project**
- **Burgess Biopower New Hampshire Mill Redevelopment**
- **Calpine Acquisition of Fore River Generating Station**
- **Casella Landfill Expansion Permitting**
- **Cement Manufacturer in Contested Proceeding**

More

Alerts



02/13/17

EPA's Focus on Boatyards and Marinas Continues

01/31/17

Maine DEP Marches Toward Rulemaking on its Wind Energy Standards Rule

01/18/17

Maine DEP Plans to Tighten Opacity Standards in Response to EPA SIP Call

01/09/17

Maine Board of Environmental Protection Unanimously Adopts Metallic Mineral Mining Rules

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News

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01/17/17

Gareth Orsmond to Oversee Land Use Clinic at New England Law|Boston

06/17/16

Michelle O'Brien Elected to Board of Directors of Environmental Business Council of New England

06/06/16

Pierce Atwood Environmental Practice Group Continues to Receive Highest Recognition by Chambers and Partners

05/25/16

Thirst and Resilience, From East to West: Bill Taylor Quoted in Vermont Law School Alumni Magazine

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Presentations

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02/02/17

Ken Gray Presenting at Alpha Analytical's Seminar on the Maine DEP's Vapor Intrusion Guidance

10/29/16

Ken Gray Speaker at American College of Environmental Lawyers 2016 Annual Meeting

10/04/16

Pierce Atwood Hosts EBC Meeting on Wind Turbine Noise: Michelle O'Brien Program Chair

09/08/16

Pierce Atwood Hosts 26th Annual Environmental Law Seminar

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Publications

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11/02/16

Pierce Atwood Attorneys Co-author MCLE Book "A Practical Guide to Land Use in Maine"

10/13/16

Matt Manahan and Cathy Connors Co-author Article: "Water, Tribal Claims, and Maine's Not-So-Settled Settlement Acts"

06/08/16

2016 Edition of Maine Environmental and Land Use Statutes Deskbook Now Available

10/19/15

EPA Proposes Changes to Hazardous Waste Generator Rules: Ken Gray Authors Article for American College of Environmental Lawyers

[View All](#)

RELATED PRACTICES

- ▶ Admiralty & Maritime
- ▶ Energy
- ▶ Energy Infrastructure Development, Acquisition & Financing
- ▶ Government Relations
- ▶ Land Use
- ▶ New Markets Tax Credits
- ▶ Real Estate

RELATED INDUSTRIES

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