



PRACTICE GROUP CHAIRS

John F. Parker
Direct — 646.292.8749
jparker@goldbergsegalla.com

Joseph J. Welter
Direct — 716.566.5457
jwelter@goldbergsegalla.com

www.GoldbergSegalla.com

Attorney Advertising
©2018 Goldberg Segalla

ENVIRONMENTAL

Goldberg Segalla's environmental lawyers' number one priority is to provide sound, strategic solutions to the problems and challenges our clients face. Our practice encompasses the full spectrum of federal, state, and local environmental laws and regulations and their impact on real estate, business and lending transactions, and business operations. With extensive experience helping clients navigate the complexities of environmental laws and regulations at every level, Goldberg Segalla's attorneys balance your business's environmental responsibilities with the expectations you set and the goals you aim to achieve.

We offer services ranging from regulatory compliance counseling to crisis response and the management of environmental liabilities in corporate, real estate, and financial transactions. Our clients — landowners, oil and gas companies, chemical and product manufacturers, construction contractors and subcontractors, real estate developers, lenders, insurers, and public and private entities — rely on us for our thorough understanding of the laws and regulations on the federal, state, and local level. Our environmental attorneys provide you with practical business-oriented advice on the basis of existing and anticipated legal requirements, and regulatory practice.

Our environmental team provides guidance and protection to clients on many different environmental fronts:

Environmental Land Use and Development

Our attorneys are skilled at helping to bring redevelopment projects to fruition. We assist our clients in every stage of brownfield redevelopments – from acquisition and financing to remediation and development. We participate in the planning, negotiating, permitting, funding, remediating, constructing, insuring, and redeveloping of environmentally impaired properties. It is also critical to understand the various programs that require developers and others to obtain land use permitting approvals. Our attorneys understand the programs and have significant experience in addressing the many issues that may arise during the permitting process. We regularly assist our clients in obtaining various state, federal, and local permits and approvals for coastal, waterfront, and wetlands development, and flood hazards. 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 storm water discharges, sewage connections and treatment, air emissions, and recycling.

Regulatory Compliance and Risk Management

Our advice on regulatory compliance and risk management has allowed our clients to avoid fines, violations, and penalties, as well as costly litigation and administrative hearings. We have developed comprehensive audit programs and environmental management systems for entire industry sectors and have achieved significant savings for our clients – more than \$50 million in fines avoided – while also providing valuable guidance to ensure continued compliance. We have extensive experience with EPA's

For an inside look at the latest developments in environmental litigation, visit our [Environmental Law Monitor blog](#).

ENVIRONMENTAL LAW
MONITOR BLOG



Self-Audit Policy, having continually guided participants through the agency's intensive audit and disclosure process and helping them minimize risks to human health and the environment. We help our clients develop strategies for addressing compliance issues to ensure environmental safety and adequately respond to government inspections and enforcement actions.

Environmental Risks in Business and Real Estate

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. Our team can identify and 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 areas of conducting and assessing environmental due diligence, drafting purchase and sale documents, and strategizing to reduce environmental exposure. We also advise lenders and borrowers on environmental matters arising from default and foreclosure, including lender liability protection under federal and state law and the application of permits and approvals from governmental authorities to address construction and development issues.

Environmental Crisis Management

Crisis management starts well before a crisis. Prevention and preparedness are the keys to mitigating the risk and effects of any environmental crisis. Goldberg Segalla's team of environmental lawyers apply years of experience in compliance counseling and risk mitigation to help our clients anticipate, avoid, and prepare for environmental crises. We assist in assessing crisis risks in corporate planning sessions; develop and advise on contingency plans and response measures; act as outside counsel during mock company simulations and drills; and help companies develop training materials, emergency action plans, and media strategies. Even the best-prepared companies, however, will experience crises. From the outset of an environmental crisis, the Goldberg Segalla team is well-versed in responding to and managing environmental, toxic tort, and similar catastrophic events. We focus on securing safety and security as soon as possible; directly engaging regulators, officials, and stakeholders in effective and appropriate ways; maintaining integrity of evidence and facts; tracking and mitigating response costs, fines and damages; and dialoguing in a civil and respectful manner with stakeholders and community members to resolve the crisis.

Climate Change

The reality of climate change is becoming ever more apparent as extreme weather events become more common and science is increasingly able to link these events to greenhouse gas emissions. As weather events become more extreme, so do the impacts on industries from insurance to construction and from agriculture to energy. Legal and regulatory impacts will be far-ranging. In the legal realm alone a new generation of climate change-related lawsuits have been filed. Through our team of experienced environmental attorneys who understand the science behind climate change, Goldberg Segalla intends to be a leader in helping our clients prepare for and respond to any climate change-related issues. Whether that assistance involves insurance coverage, environmental litigation, or regulatory preparedness, we have the experience to stay out in front of this rapidly changing field.

Hydraulic Fracturing

As high-volume hydraulic fracturing opens up the potential to tap into vast natural gas resources, public and private businesses are discovering a wealth of opportunities — as well as a host of new legal and regulatory challenges. Drawing from our breadth of experience, we provide proactive advice to help clients manage the risks associated with this potential new era of domestic energy exploration and

production, as well as guide them through complex municipal and regulatory issues or protect their interests in the event of a dispute, accident, or claim.

Cost Recovery

We assist clients in analyzing their potential cleanup liability and examine how that liability might be spread among multiple sources, including insurance carriers, prior owners and/or operators, and other stakeholders who may have a relationship to the environmental conditions at issue. We also assist clients in evaluating the availability of remedial funding through loan and grant programs, including those that may be subsidized by government entities. We are experienced in negotiating allocation and cleanup cost-sharing between the various stakeholders. Other times, the only recourse may lie in pursuing environmental litigation under state or federal law.

Environmental Litigation

Our environmental attorneys handle all phases of civil litigation, enforcement and penalty actions, and administrative proceedings on environmental issues. Our team has extensive experience handling complex environmental cases in federal, state and administrative courts. We have litigated claims involving The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), The Resource Conservation and Recovery Act (RCRA), The Toxic Substances Control Act (TSCA), The Clean Water Act (CWA), The Clean Air Act (CAA), various state statutes, wetlands, wastewater, solid waste, natural resource damages, renewable energy, pipelines, and insurance coverage. Often our attorneys engage in alternative dispute resolution in an attempt to resolve environmental disputes in lieu of litigation. Litigation sometimes is unavoidable. In those instances, we approach the many facets of litigation, including discovery, motion practice and ultimately trial, with an effective plan that serves to reduce both the concerns of our clients and the cost of litigation.

We also routinely represent 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; environmental enforcement actions by the federal, state, and local government authorities; and insurance coverage for cleanup costs and costs incurred in defending environmental actions.

Solid/Hazardous Waste

Our expertise in the federal RCRA and its state equivalents has enabled us to assist our clients in the area of waste management, ensuring compliance with the relevant regulations while balancing often competing commercial interests. We provide advice on the entire spectrum of RCRA compliance issues, including regulatory exemptions, required permits and approvals, and how a facility can most cost-effectively comply with regulations. Further, we have abundant experience in representing clients in administrative enforcement proceedings as well as in RCRA citizen suits, frequently obtaining early settlements or favorable dispositions.

Underground Storage Tanks

Storage tank cases often involve unique factual, technical, and legal issues, including complex hydrogeological factors, and turn on both statutory presumptions and contract interpretation. We have handled numerous cases involving storage tanks, including cases involving abandoned tanks left behind decades earlier by prior owners, as well as tanks that have been improperly removed and/or improperly filled. We counsel our clients with respect to the related federal, state, and local ordinances, rules, and

regulations.

Along similar lines, our environmental counseling services include working with dischargers and their consultants tasked with the cleanup of various types of environmental contamination in preparing and presenting investigation and remediation plans to federal and state agencies while seeking to limit our client's financial exposure. We not only aggressively defend these matters but actively seek contribution for the cost of cleanup and remediation against a prior owner or other party who actually caused or contributed to a discharge.

Cannabis

Cannabis is currently the fastest-growing industry in the United States, and the environmental laws and regulations that are implicated by the legalization of cannabis for medicinal and recreational purposes are vast. Given the lack of consistency in marijuana regulation on the federal and state level, and the often disparate laws between states on marijuana cultivation and production, we help business navigate the morass by ensuring their operations comply with state and municipal regulations pertaining to land use, water use, and the application of pesticides and rodenticides. We are committed to helping our businesses balance their commercial interests with the patchwork of various state and local laws and regulations.

Emerging Unregulated Contaminants

Our environmental litigation team remain leaders of the national discussion involving key emerging environmental risks as they relate to unregulated contaminants, notably per- and polyfluoroalkyl substances (PFAS) and 1,4-Dioxane. These two contaminants in particular have captured the nation's attention, including the plaintiff's bar. Our litigation team constantly tracks the jurisdictional trends taking shape with federal and state guidance/regulations of these emerging contaminants. We understand the contaminants and the science, the potential exposure routes, and the plaintiff's bar's innovative techniques, and have developed strong and strategic defenses. Our attorneys also offer advice to clients with respect to complex compliance issues as certain states have set maximum contaminant levels (MCLs) and we anticipate many other states will follow suit.

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.