

PretiFlaherty

Environmental Practice Group

Environmental Due Diligence and Risk Management

PRACTICAL COUNSEL FOR
COMPLEX MATTERS

TEAM LEADERS

Virtually all business transactions involve some level of environmental risk. Led by two former U.S. Environmental Protection Agency officials, Preti Flaherty's Environmental Practice Group offers extensive experience in environmental risk management and due diligence in business and lending transactions. Our attorneys are adept at identifying potential environmental liabilities and collecting necessary information during the due diligence period of a transaction to assist clients in determining whether risks are acceptable and developing strategies to manage them.



DAVID VAN SLYKE

David Van Slyke has managed dozens of transactions on behalf of buyers and sellers in New England and across the U.S. He is the former head of EPA's headquarters office for enforcement of CERCLA and RCRA, and was responsible for managing the development of the Agency's policies related to all appropriate inquiry, the innocent landowner defense to CERCLA liability, and lender liability.

SHARON NEWMAN



Sharon Newman, a former EPA Region 10 Assistant Regional Counsel, focuses her practice on compliance counseling, environmental due diligence initiatives, and management of contaminated sites. Her efforts related to target acquisitions for several foreign firms have involved due diligence efforts in over 30 states.

Embedded within one of the region's largest law firms, our team utilizes the full scope of services available through the firm, scalable staffing, and thoughtful project management, to provide clients with specialized representation by professionals with decades of experience at highly competitive rates.

For more information, please visit our website at www.preti.com or contact:
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OUR SERVICES

Clients rely on us to address liabilities and due diligence challenges.

Many different environmental liabilities may be implicated during a transaction, such as cleanup of contaminated property, migration of contaminations from neighboring properties, tort liability, fines and penalties associated with violations of environmental laws or permits, costs and other factors associated with remediation/demolition, and legacy environmental liabilities.

To aid clients in evaluating and addressing these liabilities, our attorneys serve as lead environmental counsel, representing clients in connection with brownfields redevelopment, negotiation of environmental covenants, transactions involving sale of energy generation assets, complex global permit transfers, and regulatory compliance and permitting.

Along the path to addressing due diligence challenges, clients rely on us to:

- Select and retain environmental consultants for Phase 1 Environmental Site Assessments (ESAs) and Limited Compliance Assessments (LCAs)
- Negotiate environmental consulting contract terms
- Negotiate access agreements
- Review draft ESAs and LCAs
- Negotiate ESA reliance letters
- Create, vet, and evaluate document data rooms
- Create due diligence policies and checklists for lenders
- Identify and manage environmental due diligence requests
- Evaluate status of permits compliance
- Prepare "Critical Issues/Fatal Flaws" evaluations
- Provide transaction strategies for minimizing environmental risk
- Evaluate and provide guidance regarding Purchase and Sale Agreement representations and warranties on compliance and environmental matters, environmental covenants, and indemnity scope
- Evaluate environmental insurance options
- Perform evaluations of seller EH&S staff on behalf of buyer
- Manage regulatory permit transfer approvals
- Create environmental integration timelines and closing/post-closing punch lists for buyers

O U R E X P E R I E N C E

- COUNSEL for Brookfield Renewable Energy Partners in connection with the **purchase of 26 hydropower projects** (comprising thousands of megawatts of capacity) in Maine and New Hampshire (\$760 million enterprise value) on three different rivers, including two rivers designated as critical habitat for endangered species by the U.S. Fish and Wildlife Service.
- ADVISED **joint venture of two private equity firms during acquisition of pulp, paper, and lumber mill facilities** by performing environmental permitting and compliance due diligence, and negotiating and drafting the purchase and sale agreement.
- COUNSEL large manufacturing business client regarding environmental, health, and safety considerations prior to its **nine-figure auction sale**, including wastewater and air permitting and compliance histories, historical contamination, remediation, and interactions with former owners and regulators.
- MANAGED environmental due diligence for a **management buyout** of Elmet Technologies, Inc., a facility with a legacy of complex environmental contamination associated with the historical practices of past owners, which spanned decades. Preti's environmental team continues to monitor environmental investigation and cleanup efforts by the prior owner to ensure that the facility's interests are protected during the remediation process.
- COUNSEL to Granite Shore Power, a joint venture comprised of Atlas Holdings LLC and Continental Commodities Inc., **managing due diligence, purchase offer preparation, negotiations, and other matters** associated with the auction purchase of the Public Service Company of New Hampshire's five-stations-fleet of thermal electric generating facilities, comprising over 1,130 megawatts of nameplate capacity in a transaction valued at \$175 million.
- MANAGED environmental permits, investigation of environmental histories, and Phase I Environmental Site Assessments on behalf of 113 gas stations/convenience stores and 20 fuel oil/storage delivery sites across three states in advance of **auction sale process** in a transaction valued at greater than \$100 million.
- PREPARED BID for auction sale/purchase of **25 hydroelectric projects in three states**.
- COUNSEL to foreign entity in connection with **purchase of a building construction materials manufacturer** with facilities in five states.