

PretiFlaherty

Environmental Practice Group

Environmental Liability Allocation

YOUR PARTNER IN RESOLUTION

TEAM LEADERS

Preti Flaherty's Environmental Practice Group includes a skilled team of attorneys providing individual companies and public entities, or groups of parties, with divisibility assessments and allocation services in connection with Superfund and uncontrolled hazardous waste sites across the United States.

45+ SUPERFUND SITES**67+** CASE TESTIMONY

Our attorneys serve as allocation counsel, lead allocators, and allocation expert witnesses. We also provide alternative dispute resolution services for allocation disputes regarding site cleanup costs and/or natural resource damages, including mediation, arbitration, and independent investigation.



DAVID VAN SLYKE



E. MICHAEL THOMAS



JEFFREY D. TALBERT

Led by E. Michael Thomas, a long-time Superfund practitioner who began his career at the U.S. Environmental Protection Agency (EPA) in the first decade of the Superfund enforcement program where he was lead counsel in the precedent-setting *Cannons* case, Preti Flaherty's Environmental Practice Group also includes former environmental enforcement attorneys with backgrounds at EPA headquarters and regional offices and the Department of Justice.

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:
Jeffrey D. Talbert PARTNER | Portland, ME | 207.791.3000 | jtalbert@preti.com

OUR SERVICES

Bringing the necessary science to bear on technical issues intrinsic to allocation efforts.

Our attorneys work closely with clients, environmental consultants, and nationally recognized experts, to meld the law with science to create the most defensible allocation possible. With decades of experience dealing with CERCLA, RCRA, and state uncontrolled hazardous waste sites, our environmental attorneys are well versed in the key components of liability allocation.

Preti Flaherty's sophisticated in-house IT department and other support personnel assist with the design, use, and management of web-based data, information sharing sites, and review platforms, allowing the firm to provide transparent information exchange with stakeholders in cases involving a large volume of documents.

NATIONAL ALLOCATION WORK

EXPERIENCE AT **45+**
SUPERFUND SITES



Our Environmental Team is well versed in the key components of liability allocation:

- Potentially responsible party investigation
- Site history reconstruction
- Fate and transport
- Risk assessment
- Remediation cost causation
- Environmental forensics
- Waste stream reconstruction
- Divisibility of harm
- Transactional database management
- Expert evaluation
- Cause and effect analysis
- Damages/financial analysis
- Gore factors and case law allocation factors

OUR EXPERIENCE

Our Environmental Team has extensive experience conducting environmental allocations and mediations. The team's allocation perspective is informed by the fact that its attorneys have experience involving significant and high-profile environmental remediation matters, including land-based owner/operator and generator sites as well as sediment and riverine sites. Preti's Environmental Team also has extensive experience with cases involving natural resource damages and potential liability extending into the nine-figure range.

- 30+ YEARS OF EXPERIENCE on complex Superfund sites and major river sediment contamination sites distinguished by innovative problem-solving, ground breaking allocation methodologies and de minimis settlements, and award-winning Superfund case management techniques.
- PRECEDENTIAL APPROACHES to complex Superfund settlements, including imposition of allocation results on non-settlers, and innovative procedures for remedial cost estimation, settlement risk management mechanisms, and associated pricing of settlements.
- EXPERT WITNESS SERVICES on all aspects of allocation of CERCLA liability, including divisibility assertions based on geographic, waste type, and successor owner/operator and generator temporal distinctions.
- IN-DEPTH EXPERIENCE on complex Superfund sites and major river sediment contamination sites and working with sophisticated teams of national technical and legal experts.
- DEMONSTRATED SUCCESS in working collaboratively and aggressively in encouraging non-participant involvement in allocations and Settlements.

REPRESENTATIVE ALLOCATION EXPERIENCE

- Developed a **pioneering case management plan** including an allocation concept, database, and settlement plan for an incinerator/midnight dumping sites case involving 600 PRPs and federal, state, and local agencies. Achieved first-in-nation multi-party de minimis cash out settlements with 300+ parties using innovative cost estimation techniques. The case proceeded from initial notice letters to RD/RA settlement and non-settlor litigation in less than three years.
- Served as **lead allocator** for the Cooperating Parties Group at the Lower Passaic River Superfund Site Study Area. This allocation involved issues related to waste types driving site risks and remedy, divisibility of harm (geographically, temporally, and by waste type), liability determination, and impacts on joint and several liability.
- Advised clients and PRP groups in **achieving favorable allocations of liability** in environmental disputes in 13 states across the US.
- Represented clients relative to **allocation of responsibility** in connection with the Housatonic River PCB sediment site in Massachusetts and Connecticut, the Lower Fox River PCB sediment site in Wisconsin, the Logan Airport remediation in Boston, the Miami International Airport remediation, and numerous other Superfund sites and RCRA facilities in connection with corrective action, regulatory, and clean up issues.