

PretiFlaherty

Environmental Practice Group

Environmental Liability Allocation

STRATEGY.

NEGOTIATION.

RESOLUTION.

TEAM LEADERS

Preti Flaherty's Environmental Practice Group includes a skilled team of attorneys providing individual companies, public entities, and groups of potentially responsible parties with strategic guidance and allocation services to resolve Superfund and uncontrolled hazardous waste site liabilities across the United States.

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

Our attorneys serve as independent analysts, investigators, allocation counsel, lead allocators, and allocation expert witnesses on these sites, including as third-party neutral allocation consultants and mediators, relative to site cleanup costs and/or natural resource damage disputes.



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:
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ALLOCATION SERVICES

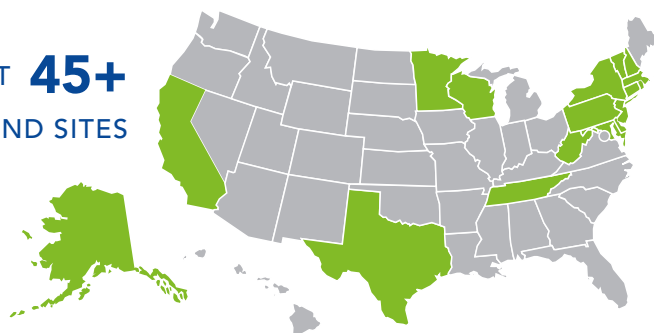
Bringing the necessary science to bear on technical issues intrinsic to allocation efforts.

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 more than three decades of experience dealing with CERCLA, RCRA, and state uncontrolled hazardous waste sites, our team is nationally recognized for both successful resolution of complex allocation challenges and advocacy as allocation expert witnesses.

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 team is well versed in the key components of liability allocation:

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

OUR EXPERIENCE

Our Allocation Team has extensive experience conducting successful environmental allocations and mediations. The Team's allocation perspective includes significant and high-profile environmental remediation matters, land-based owner/operator and generator sites, as well as sediment and riverine sites. Preti Flaherty's team also has extensive experience with cases involving natural resource damages and potential liability extending into the ten-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 judicial imposition of allocation results on non-settlers, and innovative procedures for remedial cost estimation, settlement risk management mechanisms, and associated pricing of settlements.
- SUCCESSFUL MEDIATION AND SETTLEMENT of multi-party cases achieving an average of more than 90% participation in final settlements.
- MULTI-PARTY CASE MANAGEMENT including successful mediation resolutions among 600+ settling parties and 70+ non-settlers.
- 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.
- 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 removal, remedial and corrective action, regulatory, and clean up issues.
- Appointed by U.S. District Court (S.D. TX) as mediator for disputes between and among 60+ non-settling defendants and the USOR Site PRP Group regarding shares of responsibility between generators and transporters, across waste types, and as between prior settlers and non-settlers. Numerous bi-lateral and multi-party mediations resulted in over 80% of the non-settling defendants resolving their liability at this NPL Site.