

# OUR PRACTICE

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## Environmental, Sustainability, and Product Stewardship

**Environmental law sometimes seems as pervasive as the air, water, and land it regulates. From traditional command-and-control program compliance, to cutting-edge litigation, to emerging issues like greenhouse gases, water allocation, PFAS and other emerging contaminants, sustainability and resilience, product stewardship and ESG, Baker Donelson's environmental lawyers are leaders.**

With extensive experience in traditional air, water, and waste programs, we work with business clients to streamline permitting, ensure proactive compliance, and manage environmental risks and costs. Our lawyers work regularly on NPDES and pretreatment permits, wetlands and coastal zone management issues, Title V and other air permitting, RCRA generator and TSD issues, drinking water compliance and permitting, NEPA environmental assessments, state and federal Superfund sites, and chemical regulation under TSCA and FIFRA.

Our environmental lawyers provide clients with timely advice on petroleum and other hazardous substance release reporting, as well as workplace safety and health issues under [OSHA](#), OSHA-approved state plans, and California Proposition 65 regulations. We also serve as regulatory counsel in mergers and acquisitions and real estate transactions, providing due diligence, analysis of Environmental Site Assessments, permitting opinion letters, and Brownfield development support.

Other clients need help with less traditional areas of environmental law, such as licensing and permitting for new electric generating plants or distributed energy resources, corporate environmental reporting and ESG challenges, industry environmental coalitions, environmental marketing and greenwashing issues, clean energy and net zero goals, ISO 14001 and environmental management systems, open land preservation, agricultural regulation, product take-back, and recycling. Manufacturing clients utilize our services to manage risks surrounding the use of emerging contaminants like per- and polyfluoroalkyl substances (PFAS) in products and packaging and California Proposition 65 compliance. Still others utilize our [public policy counseling and legislative lobbying](#) at all levels, in order to track and shape developing environmental and energy regulations and funding opportunities.

When enforcement or litigation is looming, our environmental trial lawyers are uniquely qualified to help. Our attorneys have bench and jury trial experience in federal citizen suits, CERCLA contribution, toxic tort, nuisance, strict liability, and land use litigation. Defending both class actions and individual claims, in both state and federal courts, our environmental lawyers are skilled in translating complex technical and legal issues into a persuasive and compelling defense. Our lawyers also have deep and broad experience in state and federal-level administrative and judicial enforcement actions, including criminal investigations and prosecution.

As regulation of the environment continues to evolve, Baker Donelson's environmental lawyers apply proven skills and experience to developing issues. As carbon emissions, non-point source pollution, emerging contaminants, and sustainability move to the forefront, our lawyers are advising clients on meeting and exceeding governmental standards and public expectations.

Our attorneys often rely on their experience in engineering, state law enforcement, the Department of Justice, the Department of Agriculture, the Federal Bureau of Investigation, EPA, environmental consulting, government contracting, state environmental agencies, and state and federal courts. Whatever environmental

challenges businesses face in the 21st century, Baker Donelson brings a wealth of practical experience, technical proficiency, and mature judgment to finding realistic solutions.

## Representative Matters

*Results may vary depending on your particular facts and legal circumstances.*

### Litigation

- Defended one of the nation's largest aggregates companies in complex state and federal court litigation in connection with a catastrophic subsidence event associated with brine-solution mining operations, securing the dismissal of multiple multi-million-dollar claims.
- Providing ongoing and prior successful defense of multiple oil and gas companies in "legacy lawsuits" seeking remediation of alleged surface and subsurface pollution, including alleged groundwater contamination, with alleged damages often exceeding several hundred million dollars.
- Providing ongoing defense of multiple oil and gas companies in Coastal Zone Management Act lawsuits asserted by various parishes and the City of New Orleans, as well as land loss litigation brought by public entities involving more than 30,000 acres of wildlife management area.
- Defended an oilfield waste management facility against claims of alleged surface and subsurface pollution and groundwater contamination, resulting in favorable settlement.
- Defended an international chemical company in series of suits brought by neighboring residents and municipality alleging contamination of nearby properties and RCRA violations under RCRA's citizen suit provision. Favorable settlement of most claims was reached just prior to trial, and dismissal of remaining claims for violation of *Lone Pine* order recommended by magistrate.
- Defended an engineer in an environmental crimes investigation involving wastewater violations of the Clean Water Act, resulting in no indictment.
- Represented a TVA engineering contractor in a putative class action arising out of the collapse of the Kingston Fossil Plant ash pond, successfully opposing certification of a proposed class of 5,000 property owners seeking over \$900 million in alleged lost property value from the spill, and subsequently secured dismissal of the action on derivative immunity grounds.
- Defended an oil and gas operating company in a legacy lawsuit by a private landowner alleging \$200 million in damages due to environmental contamination, erosion, and land loss. Achieved a favorable settlement.
- Ongoing defense of multiple class action lawsuits addressing matters ranging from alleged contamination related to buried lead-sheathed cables to refinery releases.
- Represented a recycler in an environmental crimes investigation, resulting in no indictment.
- Provided a large national supplier of pesticides counseling and representation in U.S. Environmental Protection Agency FIFRA enforcement action.
- Provided a large agri-business company with counsel and representation before the U.S. Environmental Protection Agency involving wastewater discharge permit violations and civil penalties.
- Served as lead counsel in defending a manufacturer and seller of hand sanitizers in a consolidated mass action involving Prop 65 warnings. The plaintiff alleges the hand sanitizers made by numerous defendants contain an ingredient that requires a warning under California Prop 65 and that the defendants owe statutory penalties for failing to comply.

### Compliance/Regulatory

- Represented a municipality during the successful negotiation of a \$2.5 million consent decree with the Department of Justice, Region IV of the United States Environmental Protection Agency (EPA), and Tennessee Department of Environment and Conservation (TDEC) for alleged violations of the Clean Water Act related to sanitary sewer overflows. Resulted in one of the lowest settlements in the state of Tennessee and EPA's Region IV.
- Served as legal project manager for all contract procurement required for implementation and compliance with an environmental consent decree based upon an estimated \$253 million to be

incurred by the client in project expenditures. Procurement included negotiating and drafting of project management and construction management-at-risk agreements.

- Advised a major medical center in matters related to its yearly environmental compliance audits, including improving compliance with state and federal law and self-reporting violations to the Environmental Protection Agency.

#### **Due Diligence**

- Provided a mid-Atlantic poultry integrator with legal counsel on all aspects of the transaction relating to environmental, natural resource, and real estate matters, including assistance in transferring permits and conducting due diligence on 88 acres in Linkwood, Maryland. Under a complex asset purchase agreement, the company assets were transferred to Valley Proteins in 2014 for \$37.5 million.
- Obtained a Brownfield designation from the Mississippi Commission on Environmental Quality on behalf of a regional biofuel company.