

BROWNFIELD DEVELOPMENT CAPABILITIES



Hodgson Russ has extensive experience assisting clients in managing environmental liability and meeting their obligations on various fronts when involved in brownfield remediation. We do this while helping maintain their business's competitiveness and protecting the public health and the environment.

Hodgson Russ has experience with the full range of regulations related to New York State brownfield sites, including negotiating many cleanups with the State Department of Environmental Conservation.

Hodgson Russ represents a wide range of municipalities and private sector clients in negotiating brownfield cleanup agreements and managing consultants in conducting investigations, evaluating alternative remedies, designing and implementing remedies, and documenting the work necessary to receive a New York State certificate of completion. We also have extensive experience structuring projects to help private entities receive tax benefits.

Other services include:

- Identifying and managing environmental risk in acquiring or divesting industrial and commercial properties and businesses
- Creating risk quantification, management, and transfer tools, including environmental liability transfers and highly manuscripted insurance products designed to address risk management in the unique context of a particular transaction

LAND USE

We help clients acquire, develop, construct, and operate commercial, industrial, residential, recreational, and public sector projects. Our attorneys provide assistance with environmental impact review obligations under the National Environmental Policy Act (NEPA) and State Environmental Quality Review Act (SEQR), industrial development agency projects, Empire Zone Regionally Significant Projects, site

plan review, wetlands regulation, archaeological and historic resource compliance, and coastal zone management. We have successfully represented clients in state and federal administrative forums on all phases of project development.

CONTAMINATED/SUPERFUND SITES

Clients turn to us for assistance in managing liability arising from waste disposal and petroleum-impacted sites. Our group negotiates and litigates with the United States Environmental Protection Agency (USEPA), state agencies, and private parties across the United States.

ENVIRONMENTAL LITIGATION

Our attorneys represent clients in a wide range of civil, administrative, and criminal environmental cases, including statutory enforcement actions brought by the government, environmental citizen-action groups, or private parties; toxic tort lawsuits; and disputes over contaminated sites, including brownfield sites.

COMPLIANCE COUNSELING

We help clients comply cost-effectively with statutory and regulatory requirements in various areas, including:

- Air emissions, water pollution, and managing chemicals, petroleum, pesticides, and solid and hazardous waste
- Planning for emergencies
- Managing the decommissioning and demolition of manufacturing facilities
- Assisting human resources in managing industrial health and safety, including defense of claims from regulatory violations and job-related accidents
- SEC and Sarbanes-Oxley reporting requirements for disclosure of climate change risks and responses

SELECTED RECENT TRANSACTIONS

- Hodgson Russ represented an industrial manufacturing company in a complex transaction whose results were favorable to our client and other parties in a number of ways: The client's environmental liability was transferred to an environmental engineering firm for a lump sum fixed price; the engineering firm's assumption of liability was supported by an indemnification promise backed by its balance sheet and a sophisticated and manuscripted environmental insurance policy; the facility was decommissioned, demolished, and transferred to the city, extinguishing our client's carrying costs and other legal liabilities and risks; the transaction also extinguished the environmental and contract liability of a former owner of the property and, consequently, was instrumental in settling federal court litigation between that former owner and our client; and the transaction created a framework for the city to finance and arrange for the successful commercial redevelopment of the site.
- We represented an asset management firm in its purchase of a portion of a former steel-manufacturing facility that it planned to redevelop as a manufacturing facility making alternative energy equipment. The property

is being remediated by the current owner under a brown-field agreement with the New York State Department of Environmental Conservation. We structured the transaction so that our client would acquire the property while being fully protected against any liability for historic contamination. Our attorneys also worked to ensure that the remediation would satisfy the brownfields requirements that would be applicable for the client's reuse plans and analyzed various attendant tax benefits. All of that work was an essential predicate to the client obtaining financing for the project.

- We are currently assisting with the construction of a local municipal complex. We negotiated the initial brownfield agreement to expedite the project. Thereafter, we successfully amended the agreement to obtain brownfield status and liability protection for six additional parcels of land included in this project.

FOR MORE INFORMATION, PLEASE CONTACT:

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Prior results do not guarantee a similar outcome.