



Ronald S. Cusano

Partner

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Ron Cusano is a partner at the Firm and a member of the Litigation Services Department and Energy & Environmental Practice Group. He focuses his practice on oil and gas, energy and environmental regulation, environmental permitting, compliance, litigation, investigation and remediation of contaminated properties, transactions, real estate tax assessments appeals and land use matters.

Mr. Cusano's energy and environmental practice includes the representation of organizations in the oil and gas, resource extraction, waste disposal, chemical and steel recycling industries. He also represents municipal authorities in the environmental area. His practice involves commenting on proposed environmental and energy regulations, the negotiation of terms and conditions for complex environmental permits, the prosecution and defense of appeals from administrative actions to environmental hearing boards, the prosecution and defense of environmental cost recovery actions, the performance of applicability determinations, the negotiation of consent decrees, consent orders, consent agreements and other forms of settlement documents, the evaluation of environmental site assessments, and the investigation and remediation of contaminated properties. He has extensive experience in litigating and negotiating environmental issues with the Pennsylvania Department of Environmental Protection ("PaDEP") in all of its regions across the Commonwealth.

Mr. Cusano also has a real estate tax assessment practice which involves the prosecution of appeals of county property tax assessments particularly for landfills to county boards of property tax assessment appeals and review. Mr. Cusano also handles zoning hearing board appeals including applications for variances and appeals of municipal enforcement actions.

Representative Matters

- On behalf of the corporate owner of a \$200,000,000 waste to energy facility obtained a ruling from a state environmental hearing board following 17 days of hearings upholding the air and solid waste permits for the facility. The board's adjudication included over 375 findings of fact and a determination that the air emissions control technology for the facility constituted BAT under the Pennsylvania Air Pollution Control Act.
- On behalf of a regional steel recycler successfully negotiated the settlement of the recycler's appeal of its air permit to a state environmental hearing board. The permit authorized the recycler to undertake a multi-million dollar modernization of its melt shop including the installation of a new state of the art electric arc furnace, the withdrawal of two existing electric arc furnaces and the installation of a ladle metallurgical facility. The settlement included, among other things, an agreement on a workable protocol for determining compliance with a permit condition requiring the steel recycler to maintain "negative pressure" in its melt shop, a large sheet metal building more than 100 years old.
- On behalf of a nationally prominent Pittsburgh university obtained a dismissal of a cost recovery action brought under a state's hazardous sites cleanup law by the state's environmental protection agency alleging that the predecessor of the university arranged for the disposal of hazardous substances at the disposal site involved. The Court's ruling confirmed the somewhat unique and little known requirement of Pennsylvania law that prior to pursuing cost recovery actions against alleged generators of hazardous substances, the State must first pursue all remedies available against the site owner and operator. (Under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA" or "Superfund") EPA is not required to pursue the site owner and operator first but can sue the site owner and operator and generators concurrently.) Also obtained the dismissal of a subsequently filed state cost recovery action under CERCLA seeking recovery of the same costs the state sought recovery of under the state dismissed action, on the ground that the action was barred by the statute of limitations.
- Obtained on behalf of a multi-national chemical resin producer reversal of a local air pollution control agency's order to the multi-national directing the multi-national to aggregate its air emissions with those of an adjacent but separately owned and operated chemical resin producer's air emissions for permitting purposes under the Clean Air Act. The reversal staved off a dramatic increase in the multi-national's permitting burden and compliance costs.
- Obtained on behalf of a national petroleum company a broad ranging no further action letter as a result of negotiations with the state concerning the national petroleum company's investigation and remediation of petroleum contamination (including through natural attenuation) at a bulk petroleum storage and dispensing facility owned or operated by the national petroleum company's predecessors or consignees for more than 50 years.

- Obtained on behalf of a regional airport authority a significant reduction in a civil penalty that EPA sought under the Clean Air Act against the Authority for allegedly violating the asbestos NESHAP by authorizing demolition work prior to the removal of asbestos.
- Led a team of technical experts and other attorneys in preparing the comments of a major Pennsylvania independent oil and gas trade associations to:
 - EPA's New Source Performance Standards ("NSPS") applicable to the Oil and Gas Sector;
 - PaDEP's Technical Guidance concerning single stationary source determinations;
 - PaDEP's General Air Permit No. 5 ("GP-5"); and
 - PaDEP's Permit Exemption No. 38.
- Successfully settled on behalf of an affiliate of a national solid waste disposal company its appeal to a court of common pleas of a county tax assessor's opinion as to value of the landfill property, based upon a demonstration to the taxing authorities using the discounted cash flow method that the landfill's market value was orders of magnitude below the county assessment.
- Secured on behalf of an affiliate of a multi-national construction aggregates firm, after five full days of hearings, the dismissal of a petition filed by a rival construction aggregates firm seeking the vacation of a township road which was to serve as the exclusive means of access of the affiliate to a proposed lime stone quarry.
- Successfully settled a local landfill operator's appeal to a township zoning hearing board of a township zoning officer's issuance of a notice of violation to the landfill operator alleging that it was in violation of township's zoning ordinances as a result of constructing and operating a landfill expansion without first having obtained a zoning permit from the township. The successful resolution was based in part upon a demonstration that the landfill expansion was the natural expansion of a pre-existing nonconforming use.
- Obtained on behalf of a regional public drinking water supplier a modification of an adjacent hazardous waste treatment storage and disposal facility's ("TSD") air permit requiring the TSD facility to provide enhanced notification to the drinking water supplier in the event of an emergency and a monetary settlement of the drinking water supplier's appeal of the air permit to a local air pollution control agency; also obtained a modification to the TSD facility's RCRA Permit favorable to the drinking water supplier.

Community and Pro Bono

- Saint Bernard's Choir, 2009-2012
- Bach Choir of Pittsburgh, Board of Directors, 2002-2005; secretary of the Board of Directors, 2003-2005
- Mt. Lebanon Aqua Club, registrar, 1999-2003
- University of Pittsburgh, Department of Geology, Advisory Board, Major in Environmental Studies, former member
- Green Building Alliance of Western Pennsylvania, Board of Directors, 2006-2012

Education

- Duquesne University School of Law, J.D., *cum laude*, 1976
- University of Pittsburgh, B.A., *summa cum laude*, 1973

Bar Admissions

- Pennsylvania, 1976

Court Admissions

- U.S. District Court for the Western District of Pennsylvania
- U.S. Courts of Appeals for the Third, Fourth and D.C. Circuits

Professional Affiliations

- LEED Green Associate
- Pennsylvania Independent Oil and Gas Association (PIOGA) Environmental Committee, Member; Air Quality Subcommittee, Chair, 2011-2016
- Pennsylvania Bar Association, Member
- Allegheny County Bar Association, Member
- Section Council of the Allegheny County Bar Association Environmental Law Section, Member
- Green Building Alliance of Western Pennsylvania, Board of Directors, 2006-2012
- Allegheny County Bar Association Environmental Law Section, Program Chair, 2006-2007, Secretary-Treasurer, 2007-2008, Chair, 2009-2010
- PBA Environmental Law Section, Chairman, 1994-1995
- Duquesne University School of Law, Associate Professor of environmental law, 1991-1993

Other Distinctions

- Rated AV® Preeminent by Martindale-Hubbell®
- *Duquesne University Law Review*, recent decisions editor
- Recognized in *Who's Who in Energy*, 2014-17
- Listed in *The Best Lawyers in America* for Environmental Law, 2017-2021; and Energy Law, 2021

Practices

- Energy & Environmental
- Litigation
- Sustainability and Environmental Services

Industries

- Higher Education