



Q&A With Adams and Reese's Jim Dickson

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Law360, New York (March 15, 2013, 1:48 PM ET) -- V. James “Jim” Dickson joined Adams and Reese in 2010 and focuses his practice on environmental law concerning hazardous substances, contaminated property, brownfields, asbestos, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation and Liability Act and toxic torts. He also practices commercial litigation, construction law, land use, title, trade regulation and general business negotiations.

As an adjunct professor at Stetson University School of Law, he teaches Environmental Hazards Associated with Real Property. Dickson has served on the steering committee at a number of Superfund Sites from 1984 through the present. He routinely advises clients on responses to 104(e) requests under CERCLA and has often assisted clients in response to notices of RCRA or NPDES violations and has negotiated many Consent Orders.

Q: What is the most challenging case you have worked on and what made it challenging?

A: All environmental cases are challenging. Not only are we dealing with complex regulations which often can be the subject of multiple nuances of interpretation but we are also often balancing economic good with the risks of environmental hazard when the science cannot provide needed empirical data to assist in making objective evaluations. Examples of such challenges include the following: A predecessor to a banking client had lent a development group approximately \$20 million to develop a large tract of land near a port. As a commercial site, the location was excellent. Unfortunately, half of the site was covered with a gypsum stack containing radioactive and acid materials and contaminated groundwater. In the face of numerous regulatory challenges we have been able to work out the loan with suggested environmental compliance methods and active participation in negotiations with agencies in a manner which allows the developer to achieve compliance with environmental regulatory agencies and sell off tracts of land that will result in a full payoff of the loan within a year.

Another example is a case where a shopping center developer acquired a property which it subsequently discovered had contained cattle vats. Ranches were often required to maintain such vats by the Florida Department of Agriculture through the early 1970s. They were a concrete or wooden trough filled with liquids containing arsenic and other pesticides which all cattle were periodically required to walk. The cattle would then wander around the pasture dripping arsenic and the vats were often emptied on site. The resulting arsenic contamination was very high. Through the use of a two-foot clean fill cover, acquisition of pollution insurance and the recording of restrictive covenants which

precluded wells and certain subsurface activity, the site was able to be developed fully with full environmental compliance.

Q: What aspects of your practice area are in need of reform and why?

A: The regulatory process has become too cumbersome with too much money spent on risk assessment and too little spent on risk management.

Q: What is an important issue or case relevant to your practice area and why?

A: The EPA has just issued requirements to limit nitrate and phosphorous in surface water streams and lakes in Florida and several other states. Immediately, municipal waste water facilities and large agricultural facilities with concentrated animal waste products will be impacted. Private waste treatment plants at mobile home parks and rural developments will be impacted as permits are renewed. More significant in the long run is the potential impact on future developments through the potential for implementation of new regulations to require storm water to be retained on site of the development in order to reduce nitrates in stormwater runoff.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: Mary Smallwood, a former FDEP (Florida Department of Environmental Protection) general counsel applies common sense in all applications of technical requirements of environmental law.

Q: What is a mistake you made early in your career and what did you learn from it?

A: As a young lawyer, I researched a question asked by a partner, but did not ask for or look into the background information which would have disclosed the fallacy of my assumptions. A fuller understanding of issues would have generated a much different response. The lesson which I remember well is to take ownership of any matter which one touches and never assume anything.