



## Richard Schwartz

Of Counsel

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**A seasoned environmental litigator, Richard handles complex, high-profile environmental and toxic tort litigation in federal and district courts across the country.**

### PRACTICES

Environmental  
Environmental Litigation  
Climate Change  
Site Redevelopment  
Environmental Health and Safety

### INDUSTRIES

Mining

### EDUCATION

University of Michigan Law School, J.D.,  
1973  
*cum laude*

Yale University, B.A., 1970

### BAR ADMISSIONS

District of Columbia

With over 45 years of experience defending environmental enforcement, permitting, and citizens' suits, clients benefit from Richard's wealth of strategic expertise. He has established a reputation as a nationally respected environmental lawyer, representing clients in major litigation over the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act (RCRA), Superfund Act, and state environmental laws. He has helped clients in the mining, energy, and agricultural industries respond successfully to challenges from environmental groups as well as from state and federal agencies.

### EXPERIENCE

A seasoned environmental litigation attorney, Richard's motions, trial, and appellate practice has included appearances in federal courts in Alabama, Alaska, Florida, Maine, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, and Texas; and state courts in Florida, Minnesota, New York, New Jersey, and Tennessee. He has argued appeals before the First, Second, Third, Fourth, Fifth, Ninth, Eleventh, and the District of Columbia Circuits.

### CLIENT RESULTS

Prior to joining Holland & Hart Richard worked on the following matters:

- Successfully settled a major CERCLA natural resource damages (NRD) action brought by federal trustees from the Department of Interior (Bureau of Land Management), the U.S. Forest Service, and the State of New Mexico, involving a large molybdenum mine in northern New Mexico. The settlement was approved by the federal district court in New Mexico over the intense opposition of numerous environmental groups.
- Headed a team that coordinated the common briefing on behalf of a group that included industry parties, local governmental bodies, and the State of Florida in a challenge in federal district court to U.S. EPA water quality regulations. EPA's regulations had established numeric criteria for nitrogen and phosphorous in most of Florida's streams, lakes, and springs. He presented the oral argument for the group on common issues. The court vacated EPA's stream criteria, which were the focus of Richard's argument,

and the central issue in the case. (*Florida Wildlife Federation v. EPA*, N.D. Fla. No. 4:08cv324 (February 18, 2012)).

- Selected as the lead negotiator for a joint defense group of four of the nation's largest home builders in a comprehensive federal Clean Water Act enforcement action over storm water discharges from construction sites. The negotiations successfully avoided litigation and culminated in a common national consent decree used by all four companies.
- Successfully argued before the U.S. Court of Appeals for the Fifth Circuit that the Clean Water Act does not authorize EPA to compel an animal feeding operation to obtain a permit simply because it “proposes” to discharge. The Court’s opinion cited Richard’s oral argument as a key basis for its decision. The Court also agreed that the Clean Water Act does not empower EPA to impose penalties simply for not having a permit (as opposed to discharging without one). The Fifth Circuit vacated the EPA regulations that provided otherwise. *National Pork Producers Council v. EPA* (No. 08-6193; decided March 15, 2011).
- Negotiated an enforcement moratorium for participating facilities in the hog, egg, poultry, and dairy industries under the Clean Air Act, Superfund, and EPCRA in exchange for industry funding of a monitoring study of their emissions. The “Animal Feeding Operations Consent Agreement and Final Order” was published in the Federal Register on January 31, 2005. Richard helped successfully defend that agreement in the U.S. Court of Appeals for the District of Columbia Circuit. *Association of Irrigated Residents v. EPA* (D.C. Cir., decided July 17, 2007).
- Obtained an order from the U.S. District Court for the District of Columbia invalidating EPA’s “toxic release inventory” program requirement that mining companies report the movement of rock (to expose ore) as “releases” of “hazardous substances.” That requirement had made the mining industry appear to be the most polluting industry in America. *Barrick Goldstrike Mines, Inc. v. Browner*
- On behalf of the steel industry, he developed and argued the successful industry position in *AFL-CIO v. OSHA*, the 1992 decision of the U.S. Court of Appeals for the 11th Circuit that vacated 428 OSHA exposure standards.

## RECOGNITION

- *Chambers USA*, Environment, 2008, 2010, 2013-2020
- *Chambers USA* ranked him among the best environmental lawyers in the District of Columbia, noting in 2008 that “Commentators identify him as a ‘talented and articulate lawyer.’” In a subsequent ranking, *Chambers* wrote that “Sources say Richard Schwartz is ‘absolutely exceptional, practical and smart.’”
- *The Best Lawyers in America*®, Environmental Law, 2007-2023; Natural Resources Law, 2008-2022; Litigation – Environmental, 2011-2022

- Washington, D.C. Super Lawyers®, Environmental Litigation, Environmental, 2016-2022