

Superfund Restoration

“This situation went from being an explosively litigious one, to a public-private cooperative process with tremendous positive environmental results.”

– Dr. Jonathan Deason, Dawson & Associates

Passaic River, NJ photo © iStockphoto.com/orava

CLIENT

A major corporate entity that handles nationwide remedial liabilities for several large corporations.

BACKGROUND

In 1984, the U.S. Environmental Protection Agency (EPA) designated a six-mile stretch of the lower Passaic River in New Jersey as a Superfund National Priorities List site. Despite the fact that hundreds of companies had contributed to the Passaic’s chemical degradation, EPA was holding only a few companies responsible for the significant clean-up costs. By the late 1990s, after spending more than \$50 million on the restoration, our client was the only company working with the government to clean up the river.

The situation was clearly headed towards massive litigation, which would have involved hundreds of responsible companies and dozens of public entities. In addition to millions in litigation costs, the delays in restoration would inevitably have been significant.

Recognizing the need for a solution to avoid the uncertainties of protracted litigation, our client sought the help of Dawson & Associates.

RESPONSE

In consultation with key executive and legislative officials, Dawson & Associates designed a fundamentally new approach to the restoration. Our innovative plan established a partnership combining civil works authorities of the Corps of Engineers and EPA enforcement authorities. This cooperative approach successfully encouraged affected companies to join in the restoration instead of litigating.

To facilitate implementation, Dawson & Associates successfully lobbied Congress to pass a resolution authorizing the Corps to study the problem. That led directly to a 2002 Memorandum of Understanding (MOU) between the Corps and EPA that extended the concept nationwide. The agencies subsequently designated the Passaic River as a pilot study area under the new “Urban River Restoration Initiative” that Dawson & Associates created. Other companies interested in resolving their potential liabilities began to join the restoration effort and by 2012, more than 70 companies were contributing to this successful partnership.

Today, our client shares liability with a substantially larger stakeholder base and is no longer the focus of state and federal regulators. More importantly, the Passaic River’s restoration continues, with the final cost to our client almost certainly far less than what would have been the case with extended litigation.