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Firm obtains summary judgment for Township of Roxbury in Superfund case

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Firm partner, **Steven Kunzman**, was successful in having the claims brought against the Township of Roxbury dismissed in *Strategic Environmental Partners, LLC v. State of New Jersey Department of Environmental Protection, et. al.* in the District Court of New Jersey.

The case was brought under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), also known as Superfund. The case involved a former municipal solid waste landfill known as the Fennimore Landfill which is located in Roxbury. Strategic Environmental Partners ("SEP") alleged that the Township and other parties, including other municipalities and businesses which sent their waste to the Landfill from the 1950s to the 1970s, were responsible for the hazardous substances at the Landfill. SEP sought to have the Township and other parties pay for the costs of investigation and remediation of hazardous substances.

Kunzman argued on behalf of the Township that SEP failed to demonstrate that the costs that it had incurred were related to investigation or remediation of hazardous substances; rather, all costs incurred fell within SEP's obligation to properly close the landfill under the New Jersey Solid Waste Management Act ("SWMA"). The Court agreed with the argument, finding that SEP had acquired the Landfill after it had been abandoned and had entered into an Administrative Consent Order with the NJDEP which allowed SEP to continue to collect solid waste and to finally close the landfill so that they could construct a solar farm on the site. The ACO also required that SEP conduct a number of actions, including investigation and testing, as part of the landfill closure in accordance with the SWMA. The Court also agreed with the Township that the documents that SEP provided were consistent with its obligation under the ACO and did not support their claim that they incurred costs to remediate hazardous substances. Accordingly, the defendants were granted summary judgment.

The decision, issued by Judge John Michael Vasques in the District of New Jersey, is an unreported decision. For more information on the case or for a copy of the decision, please contact Mr. Kunzman.