



## Jane E. Montgomery

COUNSEL

Jane brings an in-depth understanding of the dynamic legal landscape governing the use of air, water, and land.



### Industries

Consumer Products

### Practices

Environmental

— Environmental Enforcement Defense

— Land Use & Infrastructure Litigation

Environmental, Social & Governance (ESG)

Real Estate

### Education

Northwestern University Pritzker School of Law, JD, 1990

University of Illinois at Urbana-Champaign, BS, Secondary Education, with honors, 1980

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As climate change becomes an ever greater driver of investment and change, a deep understanding of the interplay of legal structures and technology development is essential to providing the best in environmental counseling and the “E” in ESG is Jane’s sweet spot. She has extensive experience representing energy companies, developers, lenders, and manufacturing companies in a broad range of environmental and renewable energy matters, and regularly counsels clients on day-to-day compliance issues, including those arising in air permitting and Clean Air Act Amendments, as well as solid and hazardous waste.

As one of the most versatile lawyers in the Environmental Practice Group, Jane regularly bridges the gap between engineers, business people, and regulators. She closely partners with clients to quickly resolve emergent problems as well as investigating root causes to develop procedures that keep issues from recurring.

Jane breaks down complex regulatory reform issues related to current environmental laws and rules. In responding to regulatory reform or development work, she aims to simplify and focus regulations on current problems. Recognizing from whence the regulatory structure came means that regulations can successfully build on the past without building in obsolete concepts. Since the beginning of the modern environmental era, environmental protection attitudes have evolved to respond to enormous changes in pollution prevention, technology, and manufacturing and so should environmental rules.

She brings extensive knowledge of greenhouse gases and climate change to everything from technology choices to public company disclosure obligations to strategies for companies to reduce emissions. Budding technologies and creating pathways to sustainable resource management are key areas of interest. Jane also counsels clients on issues such as carbon sequestration, carbon pathways, and offset projects. She is adept at handling challenging elemental mercury, manufactured gas plant, and polychlorinated biphenyl (PCB) issues. She is deeply involved in understanding emission calculations that companies use for both defensive and compliance purposes, and has worked extensively with consultants on these issues.

Jane has served as common counsel in Superfund matters, representing groups of parties alleged to be responsible for environmental remediation. She helps developers understand environmental issues at properties, and works with owners and planners to design contractual and remedial plans to mitigate environmental risks.

Jane also represents clients in a variety of civil and criminal enforcement actions, including responses

to notices of violation or lawsuits, and in pre-enforcement efforts, such as agency requests for information. She works on numerous business transactions, and is well-versed in how a property's environmental issues impact the resolution of a transaction to transfer property, sell assets, or sell entire businesses.

## Client Work

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### Greenhouse Gas Reduction and Regulatory Programs

- Work with clients to develop strategies to address climate change risk in their portfolios, including physical and transitional risks, and to optimize legal strategies as programs continue to develop to address climate change.
- Worked on inventory issues for pipeline and electric generation, pipeline liquids, manufacturing processes, and numerous large facilities with combustion-related or process-related greenhouse gas emissions.
- Works with clients to understand, develop comments on, and develop compliance approaches to the EPA's GHG standards for new, modified, and existing power plants.
- Develop responses to coal combustion residuals (CCR) rules, including advising on compliance and advising on state rule development to implement state CCR programs.
- Developed comments regarding environmental regulatory reform priorities.
- Working on CCUS (sequestration) issues for large power plant.

### Wind Power and other Renewable Energy Resources

- Advising on utility scale battery storage facility siting and development.
- Advising companies on local and state laws relating to wind farm and solar development, including preparing adequate documentation to withstand zoning and nuisance challenges.
- Performed due diligence involving solar development on brownfield sites.
- Represent company on litigation relating to siting of wind farm.
- Negotiating contracts, including public facility contracts, for a biomethane project at a sewage treatment plant, including review of contracts regarding the sale of environmental attributes and renewable fuels.
- A review for a lender of the safety and environmental issues surrounding a battery storage facility.
- Resolved several notices of violation for ethanol plant.

### Transactional

- Offered state and local permitting opinion letters for several transactions.
- Led local-and-state due diligence review of a cutting edge gas plant.
- Led due diligence efforts relating to the environment for the sale of a 100-year old manufacturing business and its numerous facilities.
- Planning to collect documents for and respond to due diligence questions for the divestiture of several power plants.
- Developed a review for an investor of issues concerning upcoming environmental compliance issues for a suite of electric generating facilities.
- Wrote several reviews of either asset purchase agreements or construction contracts relating to ongoing environmental remediation.
- Authored a review of numerous used auto facilities, including issues related to lease terms, underground storage tank liabilities, and asbestos or lead in building materials.

### New Source Review

- Assisted several entities in extensive investigations by EPA of alleged Clean Air Act violations. Worked with companies to provide responses to EPA's administrative information requests and worked with a team to develop defensive theories based on environmental practice, state law

practice, contract law, and corporate successor law.

### **Opacity Litigation**

- An NGO brought suit against a client for numerous opacity exceedances. The strategy was to show that the opacity exceedances were a small percentage of operating time and excellent control of particulate matter. Extensive development of the record occurred through discovery and expert reports. The matter was successfully settled upon an overwhelming demonstration of compliance. In addition to successful settlement, the state agreed to and did promulgate a rule change that exempts facilities subject to the MATS rule from the state's opacity rule.

### **Wetland Bank**

- Assisted a client in developing strategies to maximize the value of wetlands mitigation bank.

### **Power Purchase Agreements**

- Assisted power purchasers in understanding how current, upcoming and potential environmental laws may affect the ability or cost of a generator to supply power according to agreement terms.

### **Compliance Program Development**

- Assisted in the development of emergency procedures for mercury meter removal programs, and then assisted in the development of long-term training and removal programs.
- After a Section 404 discharge into a wetland violation was discovered, developed a training program to engage and heighten awareness of environmental issues presented by large construction projects.
- Assist routinely in developing and monitoring environmental health and safety audit programs and develop appropriate responses to issues uncovered through audits.

### **Developers and Manufacturers**

- Assisted in the cleanup and redevelopment of sites contaminated with manufactured gas plant (MGP) residuals or other industrial sources of pollution.
- Participated in legal and environmental diligence and site selection for a manufacturing facility in the southeast, including review of numerous site records, contracts, permits, and historic and cultural resources.
- Worked with a shopping center in Oklahoma City that involved complicated contracts with numerous parties, remediation contracts, insurance contracts, and indemnities.
- Assisted a residential development in a Chicago suburb with difficult solvent contamination and seller issues.
- Prepared no further remediation letters for several large residential developments in Chicago (Illinois Site Remediation Program).

### **Superfund Matters and Voluntary Remediation**

- Led the legal and technical team for the solvent contamination remediation at several industrial facilities.
- Working with a client team to remediate a former MGP that lies adjacent to a creek. The process has included negotiating with EPA, researching PRP liability, and reaching a settlement with a co-liable party. Remediation evolved from site owner-led cleanup to a sale to another party and the remediation under Ohio's Voluntary Action Program. Sediment remediation is expected at the site.
- In Toledo, Ohio, represented an individual client and, later, a group of parties at the Stickney and Tyler landfill sites. Represented the common interests of multiple parties in dealing with federal and state regulators and pressed those interests to successful resolution of complex issues.
- In another joint defense representation, was part of a team defending a similarly situated industry group in a cost recovery action filed in federal court. The matter involved resolution of difficult factual allocation issues.

## **Publications, Presentations & Recognitions**

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## Publications

- “New Report Highlights Need for Coordinated and Consistent U.S. Policy to Address Possible Impacts to Financial Stability Due to Climate Change,” *Schiff Hardin Energy & Environmental Law Adviser* (Oct. 25, 2021)
- “Illinois Bill Proposes Statewide Standards for Solar, Wind Farm Energy Facilities,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (May 3, 2021)
- “Affordable Clean Energy Rule Vacated,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jan. 25, 2021)
- “Chapter 11 – Climate Change,” (author) *Distributed Generation Law: A Guide to Regulations, Policies, and Programs* (Aug. 25, 2020)
- “New York Issues RFI for Build-Ready Sites to Host Large-Scale Renewable Energy Developments,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jul. 28, 2020)
- “Nationwide Permit 12: The Uncertainty Continues,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jun. 1, 2020)
- “Regulated Entities: It’s Time to Speak Up if You Don’t Like How Federal Agents Come Knocking,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Mar. 2, 2020)
- “The Trillion Trees Initiative and Sustainability,” *Schiff Hardin Energy & Environmental Law Adviser* (Feb. 24, 2020)
- “SEC Indicates it Will Not Modify Climate Change Disclosure Criteria,” *Schiff Hardin Energy & Environmental Law Adviser* (Feb. 18, 2020)
- “New York’s Landmark Climate Bill Creates Massive Investment Opportunities but with Few Details for Businesses,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jul. 18, 2019)
- “EPA’s Final Power Plant Greenhouse Gas Rule Shifts Emissions Regulation to States,” *Schiff Hardin Energy & Environmental Law Adviser* (Jun. 25, 2019)
- “Project Proponents: Five Tips to Use ESG Criteria in Drawing More Infrastructure Investors,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jun. 12, 2019)
- “Chicago’s Stormwater Inundation Presents Green Infrastructure Opportunities for Business,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (May 30, 2019)
- “SEC Says No to Shareholder Proposal, But Climate Disclosure Disputes Are Here to Stay,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Apr. 24, 2019)
- “Top Issues to Watch After Kids’ Climate Suit Lands in Ninth Circuit,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Feb. 13, 2019)
- “Develop Company Goals with Help from the Fourth National Climate Assessment,” *Environmental Leader* (Jan. 9, 2019)
- “Infrastructure, Planning Implications, and Midwest Impact of National Climate Assessment,” *Schiff Hardin Energy & Environmental Law Adviser* (Nov. 28, 2018)
- “Infrastructure permitting tug of war between Trump administration and courts,” (co-author) *International Bar Association Power Law Committee* (Sep. 11, 2018)
- “Affordable Clean Energy Rule Proposed to Replace Clean Power Plan,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Aug. 21, 2018)
- “Infrastructure Permitting Tug of War Between Trump Administration and Citizen Groups,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (May 23, 2018)
- “Thinking Through Climate Change As A Business Issue,” (co-author) *Corporate Board Member* (Feb. 26, 2018)
- “2018 Rising Trends in Corporate Climate Disclosures,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jan. 22, 2018)
- “2018 Rising Trends in Corporate Climate Disclosures,” (co-author) *Schiff Hardin Insight* (Jan. 22, 2018)
- “Trump targeting NEPA, NSR in push for energy reform in 2018,” (co-author) *The Energy Daily* (Jan. 8, 2018)
- “2018 Energy Reform Priorities: Streamlining to Further Reduce Compliance Burden,” (co-

author) *Schiff Hardin Energy & Environmental Law Adviser* (Nov. 14, 2017)

- “Regulatory Reform: Where Are We Now?,” *Schiff Hardin Energy & Environmental Law Adviser* (Oct. 31, 2017)
- “The Legal Theory Behind The Clean Power Plan’s Repeal,” (co-author) *Law360* (Oct. 17, 2017)
- “Pruitt Declares ‘The War Against Coal is Over’” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Oct. 11, 2017)
- “Four Milestones Since the Birth of a Significantly Revised TSCA,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Aug. 21, 2017)
- “TSCA Framework Rules Offer Manufacturers Regulatory Clarity,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jun. 28, 2017)
- “Shareholders Demand More Disclosure of Climate-Change Risks,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jun. 1, 2017)
- “Villainy: The ExxonMobil Story,” Section of Litigation, *American Bar Association* (May 25, 2017)
- “Four Issues Impacting Public Companies’ Climate Change Disclosures,” *Schiff Hardin Energy & Environmental Law Adviser* (May. 1, 2017)
- “Energy Independence is Theme of Trump Environmental Plan,” *Schiff Hardin Energy & Environmental Law Adviser* (Mar. 29, 2017)
- “Waters of the United States: Confusion Continues for Landowners,” (co-author) *TerraLex Connections Newsletter* (Dec. 30, 2016)
- “Asbestos Among First Ten Chemicals to be Reviewed Under the Amended TSCA,” *Schiff Hardin Energy & Environmental Law Adviser* (Nov. 30, 2016)
- “Waters of the United States: Clarifying the Clean Water Act’s Murky Boundaries,” (co-author) Section of Litigation, *American Bar Association* (Nov. 18, 2016)
- “Clean Power Plan has its Day in Court,” *Schiff Hardin Energy & Environmental Law Adviser* (Sep. 28, 2016)
- “Recap: Climate Action Plan Nears Completion,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jul. 26, 2016)
- “Toxic Substances Control Act Revised for the 21st Century,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jun. 29, 2016)
- “Another Unexpected Fork in the Road to the Clean Power Plan,” *Schiff Hardin Energy & Environmental Law Adviser* (May 18, 2016)
- “CFTC and EPA to Share Renewable Fuel Standard Data,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Mar. 23, 2016)
- “Climate Change Regulation – Locally Grown,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Feb. 18, 2016)
- “As Gas Leaks, Pressure for Regulation Builds,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Feb. 11, 2016)
- “Supreme Court Stays Clean Power Plan,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Feb. 10, 2016)
- “Clean Power Plan Will Stay in Effect Pending the Outcome of Litigation,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Jan. 22, 2016)
- “EPA’s Clean Power Plan Published in the Federal Register,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Oct. 23, 2015)
- “Climate Action Plan Takes Shape,” *Schiff Hardin Energy & Environmental Law Adviser* (Sep. 28, 2015)
- “EPA Releases Additional Elements of President Obama’s Climate Action Plan,” *Schiff Hardin Energy & Environmental Law Adviser* (Aug. 18, 2015)
- “Clean Power Plan: EPA Issues Final Carbon Reduction Rule for Existing Stationary Sources,” (co-author) *Schiff Hardin Energy & Environmental Law Adviser* (Aug. 4, 2015)

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- “Looming Carbon Pollution Standards,” *Schiff Hardin Insight* (Jun. 3, 2015)
- “EPA Startup, Shutdown and Malfunction Event Rules Are Changing,” *Schiff Hardin Insight* (Dec. 12, 2014)
- “D.C. Circuit Orders USEPA to Respond to Petition to Stop Carbon Rulemaking,” *Schiff Hardin Insight* (Sep. 23, 2014)
- “Methane Emissions Regulations on the Horizon for the Oil and Gas Industry,” *Schiff Hardin Insight* (Aug. 2014)
- “Supreme Court Limits USEPA’s Greenhouse Gas Regulations, Refuses to Wave Goodbye to Separation of Power Principles,” *Schiff Hardin Insight* (Jun. 25, 2014)
- “A Comprehensive Guide to Redeveloping Contaminated Property,” chapter on Illinois law in Brownfields, *American Bar Association* (2010)

## Presentations

- “Carbon Capture & Sequestration,” Advancing Women in Energy, Webinar (Jun. 14, 2022)
- “Clean Air Act Legal Updates,” AAPCA 2021 Virtual Spring Meeting, Webinar (Jun. 24, 2021)
- “Environmental, Social, and Corporate Governance (ESG) and Environmental Justice: Why Is It Important?” Chemical Industry Council of Illinois, Webinar (May 20, 2021)
- “Distributed Generation: The New Paradigm for Energy and Why It Matters to You,” Harvard Law School Women’s Alliance, Webinar (May 18, 2021)
- “Climate Change: Local, State, and Federal Updates,” Chicago Bar Association (Mar. 21, 2018)
- “Hot Topics,” (panelist) 2016 Air Quality Management Conference (Oct. 5, 2016)
- “Are ISOs an Answer to Controlling Greenhouse Gas Emissions?” (co-presenter) 20th Annual FERC Briefing, Boston, Mass., and Chicago, Ill. (Apr. 4 and May 15, 2014)
- “Coal on the Run?” (co-presenter) 19th Annual FERC Briefing, Chicago, Ill. (Jun. 13, 2013)

## Recognitions

- The Best Lawyers in America, *Best Lawyers* (2019-2025)
- Illinois Leading Lawyer, Law Bulletin’s *Illinois Leading Lawyers Network* (2007-2021)
- Top 100 Women Real Estate-Related Lawyers, Law Bulletin’s *Illinois Leading Lawyers Network* (2015)
- Top 100 Real Estate-Related Lawyers, Law Bulletin’s *Illinois Leading Lawyer’s Network* (2012)
- Top 50 Women Real Estate-Related Lawyers, Law Bulletin’s *Illinois Leading Lawyer’s Network* (2011-2012)
- *Illinois Super Lawyers*, Thomson Reuters (2006, 2009)
- Peer Reviewed AV® Preeminent™, *Martindale-Hubbell* (Since 2002)

## Professional Memberships

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- American Bar Association

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## Bar Admissions

[Illinois](#)

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## Court Admissions

[US Court of Appeals, District of Columbia Circuit](#)  
[US District Court, Northern District of Illinois](#)