SUPERFUND, COST RECOVERY AND CONTRIBUTION - Overview

We have represented clients in all types of Superfund matters, including as PRPs at multi-party disposal sites, as both plaintiffs and defendants in cost recovery actions, as respondents to government enforcement actions, and as parties in injunctive actions.
Our Work

Superfund, Cost Recovery and Contribution Transactions & Cases

We have been extensively involved in numerous Superfund and cost recovery matters, including:

Defending a Fortune 100 client in a Superfund/natural resource damage case involving a national wildlife refuge in Illinois. Legal issues of concern include endangered species, CERCLA remediation, allocation with other government and private party PRPs, and various land use issues. We are assisting our client in all environmental activities at the Superfund site, including actions pursuant to an Administrative Order on Consent to conduct a remedial investigation/feasibility study.

Representing an electric utility in complex litigation arising out of a former manufactured gas plant site. Neighborhood residents filed a RCRA citizen suit and CERCLA cost recovery claims in the U.S. District Court for the Northern District of Illinois. Residents also filed individual and class action toxic tort claims in Illinois state court, alleging property damage, personal injury, and the need for medical monitoring. In addition to providing advice regarding completion of site remediation under the Illinois Site Remediation Program regulatory requirements, we are representing this client in all litigation matters with respect to the site.

Defending a electric utility in a RCRA citizen suit and CERCLA action in federal court brought by the owner of the property where a former manufactured gas plant was located. We are also providing advice regarding the investigation and remediation of this property under Illinois regulatory provisions.

Representing a client in connection with potential state and federal law claims arising out of a contractor’s release of gasoline during an environmental investigation. This matter was successfully resolved by having all third-party claims paid by insurers, no litigation filed, state regulator’s claims dropped, and the contractor's contributing towards the client’s costs.

Representing and counseling an interstate natural gas pipeline company in the remediation of PCB contamination at over 70 natural gas compressor stations located in 12 states and six USEPA regions. We represented the company in negotiations with USEPA resulting in a comprehensive consent order that governed the remediation of the compressor stations in four of the USEPA regions, covering eight states, over a ten-year period. We also represented the company in negotiations with the state agencies in the remaining two USEPA regions to resolve the remediation of the stations in the states in these regions. We acted as national coordinating counsel to coordinate and manage the lawyers in various states defending the company in state enforcement actions.

Representing major Department of Energy research laboratory in negotiation to remediate, and allocate the cost of remediation, an oil
recycling facility contaminated with PCBs. The negotiated agreement resolved CERCLA claims and mitigated potential TSCA liability.

Defending a major defense contractor at the Omega Chemical Superfund Site located in Whittier, CA. We worked to develop a successful strategy responding to CERCLA §106 Order, Special Notice Letter and regional groundwater problems. We counseled the client on settlement negotiations with EPA participation in cost recovery litigation and management of offsite impacts and community concerns related to the site.

Defending a gas pipeline company in two major cost recovery cases in Florida; in one case, we negotiated a successful settlement, and in the other, we prevailed on summary judgment.

Defending a major defense contractor named as a defendant in several CERCLA cost recovery and state court personal injury class actions due to the solvent contamination of the drinking water supply for South Tucson, Arizona, and PCB contamination of soils. Under threat of a CERCLA §106 enforcement action by USEPA at this Superfund site, we negotiated a global settlement of all class action and state claims and resolution of all pending CERCLA claims in Arizona federal court. In addition, we negotiated a federal consent decree and participation agreement limiting significantly our client’s future liability. We continue to be involved in negotiations with the government regarding cost recovery and in the legal issues stemming from the ongoing remedial action, including negotiations with other PRPs, USEPA and Arizona Department of Environmental Quality.

Defending a major defense contractor in a cost recovery action arising from the Chatham Superfund Site located in Escondido, CA. We successfully resolved our client’s liability with the state and negotiated a favorable allocation with a private PRP group, reducing our client’s share from approximately 50 percent to 10 percent. We are working with other PRPs to manage a five-year remedy review in light of the discovery of new contaminants of concern, including 1,4-dioxane.

Defending a major defense contractor against a RCRA citizen suit filed against the company by the landowner at the Highland Industrial Park in Camden, AR. The landlord sought to have the client investigate and remediate historical soil and groundwater contamination. The landlord agreed to undertake this multi-million dollar work project at its own expense following our presentation of legal and technical evidence.

Representing a major defense contractor at its former operation in West Abilene, Texas, against the site owner and adjacent property owners, in addressing extensive TCE soil and groundwater contamination. We effectively negotiated with all interested parties in developing an expedited cleanup plan for soils, which allowed the resale and reuse of the property, while reserving long-term groundwater concerns for a later date.

Representing a client in a cost recovery action under CERCLA brought to recover cleanup costs for the widespread contamination at an industrial
site in New Jersey with a hundred year history. Contaminants of concern included arsenic, solvents, and petroleum. Our client sued two prior owners of the site to recover cleanup costs in the millions of dollars. After discovery, our client reached a successful settlement with the two prior owners.

Negotiating a resolution of complex regulatory matters before the Illinois Environmental Protection Agency and the U.S. Environmental Protection Agency to allow the start up of a former petroleum refinery in Lawrenceville, IL. The manufacture of reformulated gasoline required construction of new equipment and a means to manage new wastes. Regulatory matters resolved dealt with permitting, legal interpretations, and variances arising under the statutory requirements of applicable federal and state laws.

Negotiating the settlement of a company’s PRP status at two Illinois landfills, including dismissal of all CERCLA claims after a nominal payment. Our negotiated settlement protected corporate parents from liability for legacy companies.

Representing a client when landowners near the client’s tank farm brought state property claims under Louisiana law based on alleged historic contamination due to VOCs, SVOCs, and petroleum-based materials. We represented our client in a successful settlement and dismissal of all claims, including third-party CERCLA cost recovery claims brought by another industrial operator.

Representing a client in a private party cost recovery action filed before the Illinois Pollution Control Board, which sought reimbursement of significant past costs and an injunction compelling the remediation of a PCB-contaminated property in Chicago, IL. We successfully negotiated a settlement which significantly limited the client’s responsibility for future clean-up.

Defending a Fortune 100 company in a CERCLA cost recovery action brought in the Northern District of Illinois, where at trial, the client was exonerated of all liability.

Defending a Fortune 100 company in another CERCLA cost recovery case brought in Louisiana, where we prevailed on summary judgment due to the plaintiff’s failure to comply with the National Contingency Plan under the federal Superfund program.

Representing an energy company in a RCRA private-party action brought by the current property owner, which sought to compel our client to remediate a contaminated site located adjacent to Lake Michigan in Wisconsin. In addition to negotiating a settlement of the RCRA private-party action, we also successfully negotiated with USEPA an Administrative Order By Consent pursuant to CERCLA § 106.

In a case involving the interplay between bankruptcy law and CERCLA, representing a bankrupt railroad, post-bankruptcy reorganization, in a CERCLA cost recovery action.
Defending a real estate holding company in connection with a Superfund site the company owned; we negotiated a consent decree, responded to the subsequent Section 106 order, and represented the company in a cost recovery action.

Representing a significant waste hauler in connection with the company’s involvement at numerous Superfund sites.

Working with a major railroad in connection with a former tie-treating plant subsequently designated as a Superfund site.

Representing a large energy company regarding remediation, pursuant to CERCLA, of vacant industrialized property in Wisconsin. The project included the use of zoning and institutional controls to reduce remediation costs, allocation of liability among previous owners, and negotiations with municipal and county representatives to incorporate the property into a larger development project that included TIFs and other public financing.

Representing an energy company and its subsidiary in CERCLA litigation brought by current and former owners of an industrial property in southeastern Wisconsin. We negotiated a settlement with the current and former property owners and negotiated terms of an Administrative Order on Consent, addressing site cleanup with USEPA Region V and a former property owner.

Representing plaintiffs and defendants in numerous cases seeking equitable relief under the Resource Conservation and Recovery Act, including cases involving USTs and cost recovery actions.

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