

Environmental

Litigation and regulatory counseling to advance our clients goals in high-profile, cutting-edge environmental matters.

Whether litigating claims relating to emerging contaminants such as per- and polyfluoroalkyl substances (PFAS) and 1,4-dioxane, natural resource damages claims brought by federal or state trustees and their private attorneys general, environmental class actions, or novel toxic tort theories at complex environmental sites, we have a long track record of success in litigating high-profile, cutting-edge environmental matters. Our experience dates back to the worldwide defense of DDT in the 1970s, winning cases for clients in the nascent days of CERCLA, and setting groundbreaking precedent in the first wave of natural resource damages claims brought by state trustees. As the number and diversity of state and federal environmental programs and regulations have grown, so too have the complexities faced by our clients. We remain on the leading edge of environmental law and policy, and have a deep understanding of the relevant science, and unparalleled experience in litigating cases in the environmental arena and advising our clients on governmental compliance.

In addition to our legal expertise, we routinely work with the world's leading experts including, but not limited to, the following:

- air emissions
- chemical fate and transport
- ecology
- environmental engineering
- epidemiology
- forensic chemistry
- geology
- hydrogeology
- industry practices
- metallurgy
- natural resource and environmental economics
- natural resource damages
- remedial technologies and cost forecasting

- risk and exposure assessment
- toxicology

We understand and advocate sound scientific principles to successfully resolve our clients' environmental matters in the defense of governmental enforcement, cost recovery and contribution, and NRD actions under:

- CERCLA
- RCRA
- the Clean Water Act
- the Clean Air Act
- the Endangered Species Act
- the Act to Prevent Pollution from Ships
- the Toxic Substances Control Act
- the Federal Insecticide, Fungicide, and Rodenticide Act
- the National Environmental Policy Act
- the Coastal Zone Management Act
- state environmental statutes of every sort

We also defend clients facing criminal prosecution under these federal and state environmental statutes, as well as myriad private individual, mass, and class actions alleging injury to person, property, or the environment from chemical releases. A few of our notable cases include:

- Currently defending a paint manufacturer against claims brought by the State of New Jersey alleging that historical releases of lead and arsenic at a former manufacturing site, dating back to 1851, resulted in natural resource damages. The State is seeking recovery of primary and compensatory natural resources damages, statutory penalties, and other damages through claims under the New Jersey Spill Compensation and Control Act, Water Pollution Control Act, and Solid Waste Management Act, as well as common law nuisance, trespass, and negligence.
- Lead trial counsel for a manufacturer of fiberglass products in a class action lawsuit and several individual property and personal injury lawsuits arising from its historical use and disposal of materials supplied to our client that contained PFAS. In the class action matter, we successfully moved for summary judgment and won on plaintiffs' claim of strict liability. We also successfully excluded expert testimony connecting PFOA exposure to a variety of health conditions, including prostate and ovarian cancer, effects on the immune system, and other health conditions that may, in the future, be established as probably causally linked to PFOA exposure.
- Currently representing a government contractor in multi-pronged regulatory actions and litigation involving environmental issues at a legacy manufacturing facility that had been in operation since the 1930s. In addition to ongoing remedial efforts, which we advise on, the site has spawned numerous separate, although interrelated, litigation matters, in which we are involved including claims for CERCLA cost recovery and common law claims by public water providers involving

alleged impacts from volatile organic compounds and 1,4-dioxane, natural resource damages claims, mass personal injury and property damage claims, and purported class action claims for personal injury, property damage, and medical monitoring.

- Represented a manufacturing client in federal and state regulatory enforcement actions and in litigation brought by residents near the site alleging groundwater impacts from historical PFAS releases. We assisted in resolving the regulatory claims, which resulted in installation of city water lines for affected residences, lessening the value of their claims. In the residents' litigation, we focused on building a factual record, preparing expert witnesses, and attacking the plaintiffs' experts, especially as it related to standard of care and corporate conduct issues. Important legal issues involved the availability of a medical monitoring claim, which the court rejected, and theories of liability of a chemical supplier to an end-user manufacturer.
- Secured pre-discovery dismissal on the pleadings of a putative class action against Sherwin-Williams seeking personal injury, property damage, and medical monitoring damages due to alleged impacts of historical releases from a former paint manufacturing facility. The court found that the plaintiffs' challenge to the adequacy of ongoing remediation efforts was preempted by CERCLA (citing to the firm's victory in the *New Mexico v. General Electric* litigation that the plaintiffs had not plausibly alleged a medical monitoring claim because they had failed to identify specific substances to which the plaintiffs were exposed that gave rise to injury, and that the plaintiffs did not adequately plead the necessary elements for class certification under Rule 23, such as common issues or ascertainability).