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ENVIRONMENTAL LAW GROUP

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Contaminated Property

Property contamination can lead to significant long-term costs; it creates uncertainty, a potentially large ongoing liability, and if the liability is associated with owned property, it prevents property or facility transfers.

ELG attorneys advise and represent clients in a wide variety of matters related to contaminated properties. We serve clients to whom remediation orders have been issued, clients seeking to recover costs incurred through the cleanup of contaminated properties, clients who are the target of cost recovery or contribution actions, and clients who wish to avoid contaminated property liability in the first place.

THE FOLLOWING ARE AMONG THE RECENT MATTERS WE HAVE WORKED ON IN THIS AREA:

REMEDIATION

Working with regulatory agencies to ensure that selected response actions under the federal or state Superfund statutes are reasonable and necessary, cost-effective, and compliant with federal and state investigation, notice, and remedy selection requirements.

COST RECOVERY AND COST-SHARING

Litigating and defending against multi-million dollar cost recovery and contribution actions brought under federal and state statutes and common law; and working with clients and consultants to address and resolve complex factual and technical issues associated with liability and allocation

NATURAL RESOURCES DAMAGES CLAIMS

Defending clients against federal and state governmental efforts to recover for alleged natural resource damages claims

LIABILITY PROTECTIONS

Obtaining and preserving federal and state liability protections in the context of property purchases and brownfields developments, and negotiating access, liability and indemnification agreements between lessors and lessees to address actual or potential contamination scenarios

REAL ESTATE PURCHASES

Drafting and reviewing liability- and cleanup-related environmental clauses and covenants to facilitate real estate purchases

DUE DILIGENCE

Assisting in corporate due diligence efforts involving contaminated properties, including advising clients with regard to available liability defenses and limitations

OTHER SPECIFIC RECENT EXAMPLES OF OUR CONTAMINATED PROPERTIES WORK:

- » Participating in complex multi-party negotiations on behalf of a major responsible party to develop a cost-effective remediation plan for a contaminated sediment site affecting numerous private and governmental stakeholders with varying interests
- » Working with responsible parties and an affected municipality to address contamination at an old landfill and to take proactive action minimizing any adverse effects on nearby residential wells
- » Resolving a decades-old, multi-million dollar dispute between a client and a former property owner over liability and responsibility for costs and additional remedial work associated with historical contamination at a former manufacturing facility
- » Drafting liability and indemnification provisions to assist a client in the sale of a contaminated property; working with state regulators and consultants to obtain liability assurances for the client and to assure response actions at the site are "NCP compliant"; and initiating cost recovery demands against adjacent property owners responsible for the contamination
- » Drafting agreements between a lessor and lessee to address access, liability, and indemnification issues regarding the discovery and removal of asbestiform-containing material and other contaminants on the lessor's property
- » Advising clients on preparing communication plans for and then conducting offsite private well sampling while at the same time successfully reducing the chance of third-party lawsuits

- » Assisting clients in developing both onsite and offsite vapor management programs including conducting vapor sampling and installing vapor recovery systems
- » Working with clients on preparing and implementing multiple site portfolio risk management programs that screen, prioritize and address historic contamination in a systematic fashion



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