Members of Perkins Coie’s Environmental Litigation group represent clients in some of the nation’s most significant environmental litigation matters. These matters include multi-party cleanup matters and permit challenges before trial courts, appellate courts and administrative tribunals.

Our environmental litigation experience includes:

- Cost recovery, contribution, and natural resource damage actions under CERCLA and similar state statutes.
- Permit challenges under the Clean Water Act, Clean Air Act, Endangered Species Act, National Environmental Policy Act, and other federal, state, and local environmental and land use laws.
- Defense of criminal, civil and administrative enforcement matters brought under federal and state environmental statutes.
- Performance of confidential investigations in response to threatened criminal or civil prosecutions, whistle-blower claims and other concerns.
- Litigation challenging regulations promulgated by federal and state agencies to implement environmental statutes.
- Defense of citizen suits alleging violations of federal and state environmental statutes.
- Toxic tort, nuisance and property damage litigation.
- Representation of policy holders in suits to obtain insurance coverage for environmental claims.

Some of our representative environmental cases include:

- **Key Tronic Corp. v. United States** - U.S. Supreme Court, U.S. Court of Appeals for the Ninth Circuit, U.S. District Court for the Eastern District of Washington; Represented Key Tronic at trial, on appeal, and in U.S. Supreme Court in action defining recovery of attorneys’ fees under CERCLA. 766 F. Supp. 865 (E.D. Wash. 1991), rev’d, 984 F.2d 1025 (9th Cir. 1993), aff’d in part, rev’d in part, 511 U.S. 809 (1994)
- **Snoqualmie Valley Preservation Alliance v. United States Army Corps of Engineers Puget Sound Energy Inc.** - U.S. Court of Appeals for the Ninth Circuit, U.S. District Court for the Western District of Washington; Represented defendant-intervenor in challenge to Clean Water Act permit for hydroelectric project; won dismissal of lawsuit and judgment was affirmed on appeal. 2011 WL 1215605 (W.D. Wash.), aff’d, 683 F.3d 1155 (9th Cir. 2012)
- **Snoqualmie Indian Tribe v. Federal Energy Regulatory Commission** - U.S. Court of Appeals for the Ninth Circuit; Successful defense of challenge to FERC license for operation of hydroelectric project. 545 F.3d 1207 (9th Cir. 2008)
- **Boeing Co. v. Cascade Corp.** - U.S. Court of Appeals for the Ninth Circuit, U.S. District Court for the District of Oregon; Recovered past environmental response costs and future costs in CERCLA contribution action against neighboring landowner. 920 F. Supp. 1121 (D. Or. 1996), aff’d in part, 207 F.3d 1177 (9th Cir. 2000)
- **In re Lyondell Chemical Co.** - U.S. Bankruptcy Court for the Southern District of New York; Challenged bankruptcy settlement discharging CERCLA and state law liability concerning the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site. 442 B.R. 236 (Bankr. S.D.N.Y. 2011)
- **United States v. Boeing Co.** - U.S. District Court for the Western District of Washington; Represented company in negotiation, approval by federal court, and implementation of natural resource damage consent decree with federal, state, and tribal trustees concerning the Lower Duwamish Superfund Site. No. 10-758RSM (W.D. Wash. Dec. 17, 2010)
- **United States v. Dawn Mining Co.** - U.S. District Court for the Eastern District of Washington; Defended former mine operator in CERCLA action concerning former mining site in which former operator established liability of United States. 504 F. Supp. 2d 1050 (E.D. Wash. 2007)
- **City of Moses Lake v. Boeing Co.** - U.S. District Court for the Eastern District of Washington Represented manufacturer in action involving CERCLA, Model Toxics Control Act (MTCA), and common law claims related to alleged contamination of
• Municipal wells. Multiple claims dismissed through summary judgment. 430 F. Supp. 2d 1164 (E.D. Wash. 2006)

• Pinal Creek Group v. Newmont Mining Corp. - U.S. Court of Appeals for the Ninth Circuit, U.S. District Court for the District of Arizona; Successful interlocutory appeal in multi-party CERCLA case. 118 F.3d 1298 (9th Cir. 1997)

• United States v. MasTec - U.S. District Court for the District of Oregon; Successful defense of Clean Water Act enforcement action based on alleged permit violations during construction of a 90-mile natural gas pipeline.

• Okanagan Highlands Alliance v. Crown Resources - U.S. District Court for the Western District of Washington; Represented project proponent in obtaining dismissal of challenges to construction of mine.

• Klamath Tribes of Oregon v. PacifiCorp - U.S. District Court for the District of Oregon; Obtained summary judgment of dismissal, affirmed on appeal, of claim by tribes alleging treaty violations and harm to salmon fishery caused by dams on Klamath River.

• Georgia-Pacific Consumer Products LP v. NCR Corp. et al. - U.S. District Court for the Western District of Michigan; Defended former paper mill owner in CERCLA contribution action concerning Allied Paper Inc./Portage Creek/Kalamazoo River Superfund Site.

• United States and State of Missouri v. Teck American Inc. - U.S. District Court for the Eastern District of Missouri; Represented mining company in negotiation, approval by federal court, and implementation of natural resource damage consent decree with federal and state trustees concerning Viburnum Trend in Southeast Missouri.

• Roosevelt Irrigation District v. SRP, et al. - U.S. District Court for the District of Arizona; Defended the City of Phoenix and Cominco Inc. in multi-party private CERCLA cost recovery action seeking $75 million+ in response costs. Obtained summary judgment reducing potentially recoverable costs to about $250 thousand and then reached favorable settlement.

• Fitzgerald v. FTA - U.S. District Court for the District of Columbia; Serve as legal counsel for the Maryland Transit Administration in connection with the environmental review process and potential litigation. Assisting the Attorney General’s office in defending litigation challenging the Purple Line Record of Decision (ROD).

• The Boeing Company v. United States - U.S. District Courts for the District of Kansas and the Central District of California; Recovered $73 million in environmental cleanup costs from the United States based on its involvement in aircraft manufacturing sites in Kansas and California during World War II and the Cold War.

NEWS

10.09.2018

Perkins Coie Partner Shane Swindle Elected to the American College of Environmental Lawyers

Press Releases

Perkins Coie Partner Shane R. Swindle has been elected as a Fellow to the American College of Environmental Lawyers (ACOEL). He received the honor at ACOEL’s annual conference at Grand Teton National Park in Wyoming on October 4, 2018.

08.20.2018

Best Lawyers® 2019 Recognizes 277 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 277 of its attorneys were selected by their peers for inclusion in the 2019 edition of The Best Lawyers in America®.

08.15.2018

23 Perkins Coie Attorneys Named 2019 Lawyers of the Year by Best Lawyers®

Press Releases

Perkins Coie is proud to announce that 23 of its attorneys from six offices have been named 2019 Lawyers of the Year by Best Lawyers®.

08.15.2017

Best Lawyers® 2018 Recognizes 281 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 281 of its attorneys were selected by their peers for inclusion in the 2018 edition of The Best Lawyers In America®.

PUBLICATIONS

01.31.2019

EPA Proposes to Exempt Animal Waste From Reporting Requirements

Updates

EPA is currently reviewing comments on its November 14, 2018 proposed rule to exempt livestock farms from reporting routine farm air emissions under the Emergency Planning and Community Right-to-Know Act (EPCRA) and intends to issue a final rule this spring.
Courts to Environmental Plaintiffs: Use RCRA, not Clean Water Act, to Address Coal-Ash Disposal at Coal-Fired Power Plants
Updates
In three recent decisions, the U.S. Courts of Appeal for the Fourth Circuit and Sixth Circuit have signaled the courts’ refusal to allow environmental plaintiffs to use the federal Clean Water Act to address coal ash pollution from unlined storage ponds at coal-fired power plants.

D.C. Circuit Overturns EPA’s Coal Combustion Residuals Rule for Coal-Fired Power Plants
Updates
The U.S. Court of Appeals for the District of Columbia Circuit, on August 21, 2018, vacated much of U.S. EPA’s final rule regulating the disposal of “coal combustion residuals” (CCR) at coal-fired power plants.

Large Jury Verdicts in Hog Nuisance Cases Signal CAFO Litigation Is Rising
Updates
A federal jury last week returned a $473.5 million verdict against the world’s largest pork producer for nuisances caused by three industrial-scale hog farms.

Washington Supreme Court Narrows “Owner or Operator” Liability, Exempts DNR From Cleanup Law Liability
Updates
In a decision issued last month, the Washington Supreme Court narrowed “owner or operator” liability under the Model Toxics Control Act.

D.C. Circuit Upholds FTA Approval of Purple Line Light Rail Project
Updates
Reversing a district court decision that had delayed work on the $2.4 billion Purple Line light rail transit project in Maryland, the D.C. Circuit has held that the FTA and MTA fully complied with the National Environmental Policy Act when approving the project.

FERC Failed to Adequately Consider Environmental Impacts of Downstream GHG Emissions Under NEPA Says D.C. Circuit
Updates
The U.S. Court of Appeals for the District of Columbia last week vacated and remanded a 2016 Order by the Federal Energy Regulatory Commission that had authorized construction and operation of the Southeast Market Pipelines Project.

Absolute Pollution Exclusion—Not So Absolute
Updates
Slapping insurers with breach of contract and bad faith, Washington state’s highest court recently found that a general liability policy’s so-called “absolute” pollution exclusion may not be so absolute.

Executive Order Seeks Sweeping Reversal of Climate Change Policies to Favor U.S. Energy Production
Updates
President Donald Trump recently signed Executive Order 13783, an omnibus executive order aimed at reducing burdens on further development of domestic energy resources, with “particular attention” to oil, natural gas, coal and nuclear energy resources.

Potential Expansion of MTCA to More Owners/Operators of Contaminated Property in Washington
Updates
The Washington State Court of Appeals recently held the Department of Natural Resources liable as an operator or owner of a contaminated site under the Model Toxics Control Act, RCW 70.105D, in Pope Resources, LP v. Wash. Dept. of Natural Resources.

Significant Change in Award of Attorneys’ Fees in Idaho Coming in 2017
Updates
On March 1, 2017, the standard for awarding attorneys’ fees in civil actions under Idaho Code § 12-121 will change significantly to allow attorneys’ fees in all civil actions “when justice so requires.”
Courts to Environmental Plaintiffs: Use RCRA, not Clean Water Act, to Address Coal-Ash Disposal at Coal-Fired Power Plants

D.C. Circuit Overturns EPA's Coal Combustion Residuals Rule for Coal-Fired Power Plants

The U.S. Court of Appeals for the District of Columbia Circuit, on August 21, 2018, vacated much of U.S. EPA's final rule regulating the disposal of "coal combustion residuals" (CCR) at coal-fired...
Large Jury Verdicts in Hog Nuisance Cases Signal CAFO Litigation Is Rising

A federal jury last week returned a $473.5 million verdict against the world’s largest pork producer for nuisances caused by three industrial-scale hog farms.

INSURANCE COVERAGE FOR ENVIRONMENTAL LIABILITIES

Businesses operating in the United States have faced significant and evolving risks relating to environmental hazards for more than 40 years. Insurance coverage can help with the costs of defending and paying environmental claims.

READ MORE

© 2019 Perkins Coie LLP