



SUPERFUND AND HAZARDOUS SITES

KMCL lawyers have been involved with addressing hazardous substance, hazardous waste, and petroleum contamination at sites nationwide at the state and federal levels. We have successfully prosecuted and defended cases arising under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), analogous state statutes, and common law tort claims collectively involving hundreds of millions of dollars of potential liabilities. Likewise, we have worked on complex RCRA sites to address corrective action requirements, and we have defended RCRA enforcement actions and citizen suits. Further, we represented an industrial advocacy organization in passage of the ground-breaking Georgia Voluntary Remediation Program Act of 2009 (VRP), which for the first time brought expedited risk based corrective action to hazardous site cleanups in Georgia. Our attorneys led the legislative drafting effort and were key players in agency and stakeholder negotiations. And we were instrumental in getting the VRP effectively opened for business in April 2010 by adoption of a new and revised application process.

Representative Matters

- Obtained for Fortune 500 financial institution, the dismissal of multi-million dollar CERCLA litigation brought by a potentially responsible party group. The case involved the attempted imputation of officer liability to the institution as well as complex federal jurisdictional issues.
- Represented municipality in case seeking contribution for costs associated with manufactured gas plant against successors to companies dating back to 1850. A two week trial resulted in a finding of liability, after which the matter was settled with the creation of multimillion dollar escrow fund for cleanup of impacts to river sediments. The firm also assisted the city in negotiations of a consent decree governing the cleanup and continues to represent them in connection with implementing the remedy.
- Participated on behalf of client with three other PRPs in claim brought by State of Michigan and United States involving remediation of 57 miles of Kalamazoo River in Michigan from alleged PCB contamination from discharges from pulp and paper mills. Developed and implemented strategy for defending property damage and personal injury claims.
- Litigated as primary counsel numerous (more than 20) toxic tort claims involving hazardous waste or solid waste disposal sites wherein surrounding residents were alleging property damage and personal injury from materials disposed at site. Defense groups consisted of as few as four other parties and as many as two hundred. Attended, took and defended numerous depositions of expert and lay witnesses, negotiated with plaintiff's attorneys, and successfully resolved hundreds of claims on favorable basis for clients.
- Served as Common Counsel defending 32 PRPs in EPA cost recovery action. EPA absorbed 40% of response costs in settlement, and partially recovered group costs through private cost-recovery action.
- Served as Common Counsel for PRP Groups in lead battery, waste oil, waste solvent and oil, and numerous other type NPL or State superfund sites.

- Successfully defended shopping center owner against claim by EPA in NPL site that former dry cleaners at shopping center had allegedly contaminated major southern city's drinking water wells.
- Led the simultaneous enforcement negotiations and private party litigation defense for major manufacturer at site involving up to \$500 million in remedial costs. Finalized what was termed the most complex agreement ever entered by U.S. EPA Region 4 that provided for investigation and cleanup of up to 12,000 residential parcels, and litigated issues concerning the contribution protection effects of that agreement. Succeeded in obtaining very favorable settlement of ongoing consent order obligations with a cash-out agreement.
- At a site named by the Director of the Georgia Environmental Protection Division as the state's "Number One Superfund Site," negotiated a cleanup plan that resulted in a first-of-its-kind delisting of hazardous waste at the site, saving at least \$15 million. Obtained a unique agreement for the Georgia EPD to fund a portion of the work out of the state trust fund, saving our clients several million additional dollars.
- At one of North America's largest paper mills, negotiated a complex RI/FS CERCLA Consent Order with U.S. EPA with an approach that saved our client tens and possibly hundreds of millions of dollars.
- Environmental counsel for developer of \$2 billion mixed-use project involving legacy environmental issues. Provided comprehensive support services from start to finish, and we are overseeing the post-closing remediation effort to obtain final regulatory closure.
- Ongoing representation of client in the acquisition and resale of several 100-year old closed industrial brownfields sites in Canada and the U.S., including oversight of Phase I and II assessments, structuring and oversight of pre- and post-closing remediation plans, and obtaining pollution liability and cost cap environmental insurance.
- Obtained favorable resolution for the most significant defendant in multi-party CERCLA litigation over an alleged landfill on plaintiff's property.
- Obtained for Fortune 50 diversified chemical company, favorable resolution in multi-party CERCLA litigation in separate cases in New Jersey and Georgia.