

→ Environmental

Skilled and effective legal counsel is essential to managing the numerous risks associated with the continually changing and expanding environmental law requirements. Since the 1960s, Sheppard Mullin has provided environmental law related advice to a variety of clients in diverse industries. Our attorneys advise on environmental permitting issues, compliance, impact requirements, hazardous waste disposal requirements under federal and state law and liabilities under the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act and federal and state Superfund legislation. We also provide crisis response services on high profile environmental matters.

We represent clients before administrative and judicial tribunals in all areas of environmental law, with a particular emphasis on soil and groundwater contamination, hazardous waste and air quality issues. We have also assisted clients on environmental matters in federal and state courts and before many federal, state and local agencies including the U.S. Environmental Protection Agency, California State Water Resources Control Board, California Coastal Commission, California Energy Commission, California Public Utilities Commission, California Air Resources Board, local air pollution control districts and regional air quality management districts, regional water quality control boards and other local agencies.

Our attorneys are frequently retained by clients who face administrative or judicial enforcement actions in connection with alleged contamination of industrial sites. We confer with the client and the engineering consultants retained to perform the remedial investigation and feasibility study designed to determine what cleanup, if any, is required. Our attorneys also negotiate with the agencies involved in efforts to avoid court action. If a settlement cannot be reached, litigation over the extent of the cleanup or the amount of penalties may follow. We have also defended judicial actions brought by neighboring residents alleging that they have suffered personal and property injury from contamination.

In addition, the firm advises purchasers and sellers of commercial and industrial property on questions relating to their rights and liabilities regarding potential contamination. We have also counseled clients on permitting matters relating to the construction of energy production and industrial facilities, including co-generation plants, hydroelectric, geothermal and waste to energy projects and hazardous waste treatment facilities.

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Hazardous Waste, Water Quality and Wetlands Regulation

Sometimes potentially expensive enforcement action can be avoided through negotiation with the regulatory agency. In the areas of hazardous waste and water quality, we represent clients in negotiations with the California Department of Toxic Substances Control, the United States Environmental Protection Agency and various Regional Water Quality Control Boards concerning remediation projects. We have also defended clients in connection with enforcement actions brought by such agencies. We also represent clients with respect to National Pollution Discharge Elimination System ("NPDES") permitting issues and have negotiated and litigated with the Army Corps of Engineers and the Environmental Protection Agency concerning the development of federal wetland areas.

Environmental Compliance and Due Diligence

Sheppard Mullin's Environmental practice routinely advises business and property owners regarding a variety of environmental compliance issues. We also advise buyers, sellers, lenders and borrowers on the nature and extent of environmental risks associated with various business transactions. This representation includes reviewing environmental reports for completeness and quality and working with environmental consultants to develop remediation plans. In addition, we work with clients to conduct audits to ensure that all business activities comply with applicable environmental laws and regulations. By developing a working knowledge of the client's business and industry and adopting a proactive approach to environmental compliance, we can inform clients of the potential impact of newly adopted regulations.

Land Use and Environmental Protection

The environmental impact of virtually every development project must be evaluated at some level before the project can go forward. In conjunction with our Land Use attorneys, the members of the Environmental practice have counseled clients concerning the preparation, use and adequacy of Environmental Impact Statements under the National Environmental Policy Act ("NEPA") and Environmental Impact Reports under the California Environmental Quality Act ("CEQA"). In addition, we have represented clients in litigation challenging or defending the sufficiency of these statements or reports.

Air Quality

Since the mid-1960s, Sheppard Mullin's Environmental attorneys have represented clients in various proceedings before local Air Quality Management District Boards and in appeals from such proceedings. In addition, we represent clients in air quality permit proceedings and new source review matters, as well as counsel clients regarding new air quality regulations.

Insurance Coverage and Bankruptcy

Providing insurance coverage for environmental exposure is a prudent measure for clients in selected industries. Further, the availability of insurance to pay some or all of a settlement or judgment is often critical to the successful resolution of environmental litigation. Working with our Insurance attorneys, our Environmental attorneys routinely advise clients concerning insurance coverage for environmental claims and risks.

Moreover, environmental claims are often made in the context of bankruptcy proceedings, which present novel litigation challenges in apportioning liability for remediation costs. Working with Sheppard Mullin's Bankruptcy attorneys, we have extensive experience in counseling clients concerning the effect of bankruptcy declarations on potential environmental liability.

Military Base Reuse

Our attorneys assist both public and private clients in working with the Department of Defense ("DoD"), the California Environmental Protection Agency ("Cal/EPA") and the Office of Military Facilities within the Department of Toxic Substances Control ("DTSC") on the cleanup of toxic contamination groups unique to military bases such as aviation fuel, metals, unexploded ordinance ("UXO") and certain industrial solvents. Sheppard Mullin also has close relationships with a highly skilled battery of consultants knowledgeable concerning the unique challenges presented by military base remediations. Because Sheppard Mullin has been involved in military base reuse endeavors since the emergence of this specialty area of legal practice, we

continue to be called upon to represent commercial and residential developers, builders, major landowners and lenders on the most ambitious and sophisticated development proposals today.

Because the military is required to comply with federal and state hazardous waste laws, they are ultimately responsible for the cleanup. The available military land can also present tremendous opportunity for private sector developers and investors seeking to acquire or reuse the land. Whether Sheppard Mullin attorneys are working with developers, lenders, reuse authorities or other public agencies, the importance of familiarity with governmental jurisdictions and facilitating inter-agency coordination cannot be overstated. We focus on overcoming the obstacles at hand and seeking the approvals and remedies required in order to ensure both the effective cleanup of a given parcel and the desired reuse of that land.

Cogeneration

Cogeneration facilities, which produce both electrical energy and thermal (heat) energy for use in industrial processes, present opportunities for many organizations. Our attorneys assist clients to structure cogeneration and other energy related transactions, as well as negotiate and draft agreements that provide for cogeneration facilities and services. The firm also helps clients resolve the range of legal issues that arise in connection with cogeneration, including land acquisition, environmental compliance and permitting, land use entitlements, zoning and regulatory matters before the California Public Utilities Commission, along with a host of other agencies.

Toxic Mold

Sheppard Mullin advises owners, lenders, property management companies, developers, contractors and insurers regarding disclosure requirements and claims avoidance, as well as with representation in mold related litigation. The legal issues surrounding mold claims can involve multiple areas of the law, including environmental, construction, toxic torts, real estate, insurance coverage and insurance bad faith. Mold claims often arise in construction defect cases, real estate fraud actions, personal injury cases and landlord and tenant actions.

Because mold disputes can be complex, our attorneys who specialize in this area work to identify the scope of an alleged mold problem and advise clients regarding remediation, insurance, disclosure, personnel and liability issues. Additionally, we vigorously defend or prosecute on behalf of clients involved in mold litigation.

Dispute Resolution and Litigation

Sheppard Mullin represents clients in administrative and litigation proceedings under a wide variety of environmental regulations. We have advised on Comprehensive Environmental Response, the Compensation and Liability Act of 1980 ("CERCLA") and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as well as analogous state statutes and common law. We represent clients before administrative boards and regulatory agencies, as well as in the prosecution or defense of actions to allocate responsibility for cleanup costs.

Our team has extensive experience in underground storage tank regulation and litigation of actions brought pursuant to California Proposition 65, the Federal Clean Water Act and various state environmental laws and tort doctrines, including actions alleging contamination, product defect and failure to warn regarding methyl tertiary butyl ether ("MTBE"). We are also experienced in defending clients in toxic tort actions involving medical damages resulting from alleged contaminant exposure.

In representing clients faced with potential litigation such as individual suits and class actions, as well as other disputes involving risk of large penalty assessments, our attorneys are often involved in multi-jurisdictional criminal investigations. We have experience defending clients charged with criminal violation of environmental laws and, when necessary, work in conjunction with our criminal defense attorneys to resolve the challenges at hand.