Tucker Ellis LLP

Environmental

Overview

Tucker Ellis knows that representing our clients effectively in the area of environmental regulation requires attorneys with a thorough understanding of applicable regulations, as well as knowledge of the science behind them. Strong advocacy requires a combination of trial and litigation skills and the ability to effectively communicate and interact with government regulators.

The Tucker Ellis Environmental Group has more than 50 years of collective experience representing clients in all aspects of environmental regulation and litigation. We have a superior level of understanding regarding the science behind environmental regulation, with technical expertise in groundwater modeling, hydrogeology, and toxicology, as well as remediation methods. Our attorneys have held the highest-ranking positions in state and municipal environmental regulatory agencies and enforcement divisions. Our unique governmental and prosecutorial experience translates to more effective and efficient representation of our clients.

Our trial lawyers have extensive courtroom experience in both federal and state courts and have obtained favorable decisions in cases in multiple jurisdictions and before numerous state agencies and commissions. With regard to alleged criminal violations of environmental laws, our attorneys have provided white collar defense to clients in some of the largest prosecutions in the country.

We work closely with the firm's other practice groups, particularly in the areas of corporate and real estate law. Our attorneys routinely assist with environmental due diligence in corporate and real estate transactions. We help facilitate successful transactions through various incentives, including obtaining millions of dollars in incentives for brownfield redevelopment projects. We also provide assistance to the firm's tax and corporate lawyers and bond counsel in the planning and financing of public and private works projects, such as wastewater treatment plants and air pollution abatement equipment.

Our team is experienced with the siting, permitting, and financing of renewable energy projects. We have developed power purchase agreements and financing for solar and wind projects, and worked through complex permitting and siting issues for biomass and other renewable energy projects.

AREAS OF EMPHASIS

- Environmental compliance counseling and litigation—Clean Air Act, Clean Water Act, RCRA, TSCA, CERCLA, and FIFRA

- Brownfield redevelopment and cleanup, including incentives for assessment and cleanup, financial assurance and cost-recovery
- Superfund enforcement actions, including Potentially Responsible Parties (PRP) defense, contribution actions, and litigation coordination
- Toxic torts
- Air, water, wetland, and solid waste permitting, as well as licensing of construction and demolition debris landfills
- Environmental due diligence
- Land use challenges under the California Environmental Quality Act (CEQA)

Experience

- Negotiated a significant environmental indemnity agreement and secured state and local economic incentives to support a data center project requiring a $10–$15 million environmental cleanup under U.S. EPA and Ohio EPA oversight
- Represented large manufacturer with locations in multiple states with regard to all aspects of environmental compliance counseling, including EPCRA reporting, TSCA enforcement, and hazardous waste cleanup
- Represented international auto parts manufacturer in criminal and civil enforcement actions under the Clean Water Act
- Represented privately held food manufacturer with plant and headquarters expansion onto brownfield properties; secured more than $4 million in grants and other incentives to assist with cleanup, demolition, and redevelopment of the property; secured the release of over $1 million in liens on the properties, including federal environmental cleanup and tax liens; negotiated and obtained legal settlements to resolve outstanding environmental liability issues associated with pre-existing contamination on the brownfield property
- Obtained summary judgment on behalf of major oil company in a benzene exposure claim
- Represented prevailing party in a state Supreme Court case limiting state agency's authority when including conditions in permits for air emissions
- Represented chemical manufacturer in successful challenge to U.S. EPA administrative enforcement action under RCRA
- Represented privately held company that owned 90 gas stations in multiple states on all environmental issues, including issues related to state underground storage tank insurance funds, regulatory cleanups, environmental due diligence, and liability transfer as part of sale of stores
- Represented international company in the siting and permitting of its first clean coal facility in the United States
- Represented developer in securing 404/401 permitting for large retail development project
- Represent manufacturers and retailers in actions under California's Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)

- Represent aerospace manufacturer in state enforcement action brought under the Federal "Superfund" law (Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA))
- Represented major developer with regard to NEPA compliance
- Represented major manufacturing client with performance of environmental audits and compliance counseling
- Represented local developer in CEQA challenge to redevelopment of commercial property as a carwash
- Represent transportation company and employees in criminal prosecution for violation of state hazardous waste disposal laws
- Obtain successful abandonment of prosecution by Regional Water Quality Control Board of Administrative Complaint seeking $12 million in penalties against mobile home park operator for discharges from wastewater treatment plant in violation of permit requirements
- Represented manufacturer in mass tort action filed by 2,200 residents claiming drinking water contamination from contaminated aquifer