

Environmental Insurance Coverage Experience



OUR EXPERIENCE

K&L Gates' lawyers have three decades of experience assisting clients to obtain insurance coverage for environmental losses and liabilities. When government demands for cleanups began to escalate in frequency and severity in the mid-1980s, we were among the first law firms to advise clients about the potential for insurance recovery. We remain in the forefront of this practice area, continuing to represent clients in environmental coverage matters as policy forms and wordings have evolved over time.

In the course of these 30 years, we have developed many innovative and comprehensive coverage strategies for accessing our clients' historical insurance policies. Through the hundreds of environmental coverage engagements we have had, we have dealt with the vast majority of insurers—both domestic and international, both liability and first-party property—which issued policies that may provide coverage for environmental liabilities and losses.

We have fashioned some of the most innovative settlement approaches to environmental insurance coverage disputes. The firm's success in recovering insurance assets in this and other contexts has been reported in the *Wall Street Journal*, the *New York Times*, and *Business Insurance*, as well as in numerous trade periodicals. By seeking resolutions through creative solutions and litigating effectively against insurance companies where necessary, K&L Gates lawyers have concluded hundreds of settlements, totaling hundreds of millions of dollars in coverage paid to our clients. Our "public record" representations of companies seeking coverage for environmental liabilities have included: Alcoa, Babcock & Wilcox, Baltimore Gas & Electric, Borden, Carrier, Del Monte Fresh Produce, DuPont, Inspiration Consolidated Copper, Lockheed Martin, Northwest Natural, PECO Energy, PPG Industries, UGI Utilities, Uniroyal, United Technologies Corporation, Washington Natural Gas Company, Waste Management, and Westinghouse Electric Corporation, to name a few.

We have also repeatedly and successfully litigated environmental insurance coverage cases when our clients' insurers have refused to provide reasonable coverage. We are widely credited with developing and filing the first comprehensive, multi-site environmental insurance coverage case in the country, and achieved the first bad-faith jury verdict against a major insurer in this area. Since that time, we have litigated hundreds of environmental insurance coverage cases throughout the United States and in international arbitrations and other forums.

K&L Gates environmental coverage lawyers have widely published and presented on topical legal questions, including questions of trigger of coverage, allocation, pollution exclusions, damages, the duty to defend, own-property exclusions, corporate successorship, and transfers of historical insurance assets, among others. Additionally, we have worked closely with other professionals with expertise in environmental regulation and compliance, remediation projections, damage modeling, state-of-the-art defenses, securities law compliance, and insolvency law to ensure that our clients receive the benefit of a comprehensive approach to the strategic challenges presented

by environmental liabilities and losses K&L Gates has created significant value for a large number of clients because of its sophistication and its innovative legal strategies in obtaining insurance coverage.

OUR APPROACH

With each client, we work to customize a strategic, interdisciplinary approach to preserving and accessing historical insurance assets to respond to our client's present and future environmental liabilities. For some clients, this means preemptive litigation, seeking to ground the dispute in a favorable jurisdiction. For other clients, it means reaching out through our many relationships with insurance industry representatives to jump-start a process leading to a resolution on which the client can depend. In all events, we counsel a comprehensive, forward-looking approach that does not forsake the client's future for the sake of an immediate, nonstrategic gain. At the same time, we bring an interdisciplinary perspective to our insurance coverage retentions, counseling clients to place their insurance coverage strategy in the context of a broader, overall strategy embracing elements of defense, corporate, securities, and other related disciplines.