

WASTE MANAGEMENT & SUPERFUND LITIGATION

Moore & Van Allen's environmental attorneys have long standing experience in assisting our clients with solid and hazardous waste management and recycling issues, on site and off site response actions, waste facility permitting, site investigations, and compliance issues. We have a similar depth of experience representing clients who find themselves entwined as defendants in private party or government RCRA and Superfund litigation, whether as past or present owners or operators of cleanup sites, or generators of hazardous substances that are the subject of private or government response actions. We have also represented plaintiffs seeking cost recovery and hazardous waste cleanup remedies. We have participated in, formed, operated and managed groups of potentially responsible parties, and have represented individual clients and PRP groups in negotiating settlements of both state and federal past cost and response action consent decrees and administrative orders. One of our attorneys, Bill White, was for three years the EPA headquarters manager responsible for Superfund Enforcement in all ten EPA regions. Bill engaged for EPA with the Department of Justice, other federal agencies, the White House and Congress on Superfund enforcement reforms and statutory reauthorization during the first Bush and the Clinton administrations.

Notable Moore & Van Allen waste management and Superfund engagements include:

- Carolina Transformer, Fayetteville, NC. (Consent Decree now in negotiation and will be lodged in U.S. District Court, Eastern District of North Carolina in January, 2008) Bill White has been acting as lead counsel for a 54 member PRP group in conducting an internal allocation and negotiating a CERCLA consent decree with EPA to settle its \$33 million claim for past and future costs at a former transformer repair and scrapping facility. We obtained an outstanding past cost compromise agreement with EPA for the PRP Group due to, among other things, the agency's 20 year delay in searching for PRPs. The PRP Group will be offering the opportunity to join its settlement to approximately 300 PRPs which the EPA found too late to pursue, and will assert contribution claims against those PRPs who decline to join.
- *U.S. v. Martin Marietta Materials, Inc., et al.* (U.S. District Court, Eastern District of North Carolina) Represented Martin Marietta Materials in negotiating a CERCLA past cost and response action consent decree related to the Reasor Chemical Site.

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- *SNL Corp. and SNL Limited Partnership v. Aplix, Inc., et al*, Civil Action No. 3:95CV67 P (U.S. District Court, Western District of North Carolina). Represented a bank that had served as the trustee for a trust that owned property that was used by a series of businesses that allegedly released hazardous substances on the property. We worked with the beneficiaries of the trust to recover cleanup costs from other parties that insured, used or sent materials to the site.
- *U.S. v. Dockery, et. al.* (U.S. District Court, Middle District of North Carolina) ("Macon-Dockery Site"). Represented DuPont in an action filed by the EPA to recover emergency response costs and compel a further cleanup of the site. As part of the litigation, a Record of Decision was negotiated, and a cleanup was initiated.
- Aqua-Tech Environmental Site, Greer, SC. Represented several clients that were served with a Unilateral Administrative Order to investigate and cleanup the site, and served on the PRP Group Steering Committee during the process of negotiating shares and the scope of the cleanup.
- *U.S. v. MTM Chemicals, Inc.* (EPA Administrative Action). Represented MTM Chemicals in connection with a multi-million dollar penalty assessed by the EPA in connection with alleged violations of the Resource Conservation and Recovery Act. The case was resolved, in part, through negotiation of the performance of a Supplemental Environmental Project.
- *South Carolina Department of Health and Environmental Control v. Western Atlas, Inc. et al.* (United States District Court for the District of South Carolina, Columbia Division, 2000-2005). Represented a supplier and recycler of industrial solvents and a transporter of hazardous wastes that has allegedly contributed to groundwater contamination. This is a CERCLA enforcement action that seeks to hold five defendants jointly and severally liable for past and future government-incurred response costs and natural resources damages.
- *Lord Corporation v. Brown & Williamson Tobacco Company, Marathon Oil Company and Ashland Oil Company* (U.S. District Court, District of Kentucky, Bowling Green Division, 1998). Represented plaintiff in CERCLA contribution action against prior

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owners of real estate.

- *U.S. v. Abbott Laboratories* (Aquatech Environmental Superfund Site) (United States District Court, Western Division of South Carolina 1989-1995). In this CERCLA cost recovery action, we represented several of the major PRPs and served on the PRP Steering Committee for the site. The case was ultimately settled.