

REPRESENTATIVE MATTERS

Natural Resource Damages (NRD)

We have successfully represented numerous Fortune 500 and other companies on a wide range of natural resource damage actions, both in alternative dispute resolution and formal judicial proceedings.

Our natural resource damages litigation experience includes:

- Representing a national metals mining, smelting and refining company in connection with more than \$3.5 billion dollars in NRD claims in multiple states around the country
- Defending a major manufacturer and obtaining a favorable global settlement in a Superfund action brought by the U.S. Department of Justice and the Texas Attorney General's Office for natural resource damages and response actions associated with mercury in bay sediments
- Representing numerous clients in defending against EPA and state claims and negotiating cost-effective and appropriate cleanups with the federal and state governments at several dozen single and multi-party state and federal Superfund sites across the country
- Defending petroleum companies from NRD claims arising from the distribution of reformulated gasoline

National Environmental Policy Act (NEPA)

Our lawyers routinely handle NEPA review and comprehensive environmental permitting for applications before the Federal Energy Regulatory Commission (Natural Gas Act applications), U.S. Minerals Management Service (Outer Continental Shelf Lands Act applications), U.S. Coast Guard (Deepwater Port Act applications), U.S. Army Corps of Engineers (Sections 404/10 applications), U.S. Fish and Wildlife Service and other agencies.

Our NEPA experience includes:

- Assisting with NEPA review (EISs) and federal/state environmental permitting for several onshore and offshore LNG terminal and natural gas pipeline projects in the Gulf of Mexico region, in the Northwest and in the Northeast, including applications before the Coast Guard, FERC, COE and other agencies
- Assisting with NEPA review (EIS and Supplemental EA) and federal environmental permitting for an international onshore LNG terminal and natural gas pipeline project, including applications before FERC, MMS and COE, among other entities
- Multiple projects for major U.S. energy companies requiring assistance with NEPA review (EISs and EAs) and federal environmental permitting for siting of new wind power generation facilities, new power plants or modifications of existing facilities, and construction of new electric

power transmission lines or modifications to existing lines

- Representing a U.S. trade association in litigation concerning the U.S. Fish and Wildlife Service's obligation to comply with NEPA with respect to certain actions undertaken in accordance with the Endangered Species Act
- Representing a resort owner relating to preparation of an EA required for issuance of an incidental take permit
- Representing a commercial developer concerning preparation of an EIS for a large multiuse development

Endangered Species Act (ESA)

Opposition groups have become skilled at challenging projects on Endangered Species Act grounds, and these challenges often escalate to federal court litigation. We have represented project developers in many ESA cases across the country and have experience briefing the Supreme Court on ESA issues.

Our ESA litigation experience includes:

- Representing a large national homebuilder association and a number of local governments in the U.S. Court of Appeals for the District of Columbia in a case challenging the constitutional authority of Fish and Wildlife Service (FWS) to impose restrictions on private parties
- Representing a large landowner in litigation in federal district court in California challenging the designation of critical habitat for a number of species that inhabit vernal pools

- Representing a large national homebuilder association in litigation in Florida federal district court and the U.S. Court of Appeals for the Eleventh Circuit in litigation by a number of environmental groups challenging a Biological Opinion issued by FWS in connection with a Section 7 consultation with the Federal Emergency Management Agency (FEMA) concerning issuing flood insurance for development projects in the Florida Keys. The district court judge found the Biological Opinion to be flawed and issued a ruling prohibiting FEMA from issuing any flood insurance policies in the Keys until it had completed a new Biological Opinion to the satisfaction of the court

- Representing the largest landowner in southern Orange County, California in litigation in the U.S. District Court for the Central District of California challenging the designation of critical habitat for the coastal California gnatcatcher
- Filing *amicus* briefs on behalf of clients in the U.S. Supreme Court in several cases arising under the ESA

Natural Resource Extraction Issues

Regulatory agencies have taken a closer look at oil and gas drilling operations in general, and hydraulic fracturing in particular. We are advising energy companies and trade groups concerning these new hydraulic fracturing/well stimulation requirements imposed by state, regional and local governments. We have also been involved in several key regulatory proceedings involving oil and gas production across the country,

particularly advising oil and gas companies regarding environmental and safety requirements.

Our Natural Resource Extraction experience includes:

- Advising various corporate concerns and trade groups on the impact on federal environmental legislative initiatives included in the Energy Policy Act of 2005 on oil and gas exploration and development activities
- Representing energy trade groups in *LEAF v. EPA* in connection with the application of Underground Injection Control requirements under the federal Safe Drinking Water Act to oil and gas exploration and development operations and specifically hydraulic fracturing/well stimulation activities

- Advising energy trade groups and corporate concerns on newly-promulgated environmental regulatory requirements affecting oil and gas exploration and development activities (including hydraulic fracturing/well stimulation activities) arising under numerous state and local authorities across the country
- Representing a national metals mining, smelting and refining company in connection with several EPA consent decrees related to copper mining activities