



ENVIRONMENTAL LAW

360°

ABOUT OUR PRACTICE

Morris Polich & Purdy has more than 30 years experience representing clients in environmental litigation and regulatory matters. Our firm represents clients in environmental damage, product liability and toxic tort litigation across the country. We also advise on environmental compliance and enforcement issues in the areas of air pollution, water quality and contaminated property. This work includes negotiations with environmental agencies at the local, state and Federal levels.

We have experience in all areas of environmental law, including:

- Contamination of land, water and air
- Regulation of hazardous materials
- California's Proposition 65
- Federal Superfund cost-recovery litigation
- Chemical and toxic exposure

We have served a wide range of public and private clients, including:

- Manufacturers and distributors of chemicals
- Manufacturers and designers of chemical protection equipment
- Property owners and contractors
- Manufacturers and generators of allegedly hazardous substances in matters relating to Superfund liability

We have appeared as counsel both in regulatory agency proceedings and in litigation involving alleged violations and permitting matters arising under:

- California Environmental Quality Act ("CEQA")
- Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")
- Porter-Cologne Act, California Water Code § 13240, et seq.
- Clean Water Act, Total Maximum Daily Loads, NPDES permitting, enforcement actions
- Clean Air Act
- Resource Conservation and Recovery Act ("RCRA")
- California Proposition 65
- Endangered Species Act
- Underground/Aboveground Storage Tanks, California Health & Safety Code §25270, et seq.
- Lempert-Keene-Seastrand Oil Spill Prevention and Response Act

A CROSS SECTION OF OUR EXPERIENCE

CERCLA

- We acted as counsel at the trial and appellate phases of a seminal CERCLA decision in the Ninth Circuit Court of Appeal concerning prior owner liability. The plaintiffs sued an assortment of public and private entities seeking recovery for the costs of removing hydrocarbon contamination from a wetlands area. We convinced the Court to uphold the dismissal of all CERCLA claims against our client, who was the prior owner of the property. That decision, which was rendered by the en banc panel of the Court, has been the subject of extensive nationwide commentary.
- We defended a private CERCLA action filed in U.S. District Court for the Eastern District of California. The plaintiff, a California city, claimed that our client's shipbuilding operations contaminated industrial property on the Sacramento Delta.
- We represented an agricultural cooperative and a chemical blender and filler in connection with the Purity Oil Sales and San Gabriel Valley Superfund sites.

Water Quality

- We represent a landowner with regard to efforts to remediate extensive groundwater contamination in the South Bay area of Los Angeles County. The property was the location of an aircraft parts manufacturing plant for several decades. On and off site releases of TCE, PCE and Chromium 6 have been identified in both soil and groundwater. We acted as the client's representative in extensive negotiations with the Regional Water Quality Control Board to obtain approval for a cutting-edge in situ remediation technology.
- We represented a client in litigation against the State Water Resources Control Board seeking to enjoin the Board from withdrawing from an agreement to issue a No Further Action Letter with regard to Volatile Organic Compound contamination that threatened groundwater. The case was satisfactorily resolved by settlement.

Air Quality

- We represented a national telecommunications company in connection with a proposed multimillion dollar penalty by a local air pollution control district for fiber optic cable installation; successfully negotiated elimination of the penalty.

A CROSS SECTION OF OUR EXPERIENCE (CONTINUED)

- We represented paint manufacturers, dealers and contractors against various local air quality management districts and the California Air Resources Board to invalidate regulations limiting the organic compound content of architectural coatings.
- We challenged the environmental, economic and constitutional appropriateness of a local air quality management district's air permit-trading scheme on behalf of a metals industry alliance.
- We obtained stipulated orders for abatement from local air quality management districts allowing continued operation, pending permit modification, for ski resort, cheese manufacturing facility, several metal fabricators and coaters, wood treatment facility, industrial bakery, and food flavoring manufacturer.
- We represented a construction company in a criminal action arising from an alleged violation of local air quality standards.

Endangered Species Act

- We represented the San Bernardino Municipal Water Department in consultation with the U.S. Fish & Wildlife Service regarding the Santa Ana suckerfish. Our client is one of the few to be excluded from critical habitat designation proposed for this species.
- We represented a recreational motorcycle club in a successful challenge to designation of desert tortoise critical habitat.

Toxic Substances

- We represented a contractor in a case involving alleged injuries to teachers and students who were exposed to chemicals emanating from roofing system components during roofing work at several schools in a Southern California school district. We established at arbitration that the roofing system could not have caused the alleged injuries.
- We obtained summary judgment for a client in a case involving the deaths of three water treatment plant workers caused by exposure to sulfur dioxide. We established that our client's product did not cause the release of sulfur dioxide.

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- We represented a premises owner in a case involving allegations of severe bodily injuries caused by long-term exposure to significant levels of mold. Our attorneys were successful in convincing the trier of fact that, according to the weight of established scientific evidence, mold could not have caused the alleged injuries.

Proposition 65

- We represented the owner of a ski area in the San Bernardino Mountains in an environmental damage and Proposition 65 action. The case was successfully settled and the Proposition 65 action was dismissed.
- We represented a retail distributor in a private Proposition 65 action regarding a nicotine-containing dietary supplement.
- We represented one of the nation's largest direct marketers of industrial supplies and equipment regarding numerous catalog items.

General

- In a private matter, we represented the interests of a large multi-national entertainment conglomerate in complying with the various hazardous waste disposal/handling/storage, water quality, air quality, and storm water discharging guidelines. The client's manufacturing arm had not complied with the governing agencies' requirements for several reporting periods and was faced with substantial penalties. We obtained a dismissal of the pending action by the creation of a comprehensive environmental, health and safety program.
- We also represent clients in cases concerning MTBE contamination of groundwater, the investigation of soil and possible groundwater contamination by Volatile Organic Compounds allegedly released by a medical device manufacturer, and the heavy metal contamination of nutritional supplements.
- We represented a former lessee who was sued by a local redevelopment agency under California's Polanco Act. The agency alleged that our client was responsible for the costs of investigating and remediating soil and groundwater contamination on industrial property.



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