



## REMEDIATION, CORRECTIVE ACTION AND VOLUNTARY CLEANUPS

### BROAD REACH

Barnes & Thornburg LLP assists clients with a variety of remediation projects, including voluntary cleanups, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and state Superfund response actions, Resource Conservation and Recovery Act (RCRA) corrective action, and Brownfield projects. Our environmental professionals have worked on cleanups in numerous states and across virtually every EPA Region.

Remediation projects are governed by a number of key statutory and administrative regulations and guidance documents. Our clients value the many years of legal experience our environmental attorneys bring to negotiating common-sense environmental cleanups within this legal framework. Members of our Environmental Law Department have been intimately involved in the development and adoption of these laws, rules and guidances, and we use this thorough understanding and unique background to our clients' advantage. Our Environmental Law Department also includes legal professionals who have science and engineering degrees and have worked as environmental consultants on projects across the country.

Our environmental lawyers' practical experience complements our in-house technical professionals and outside environmental consultants, allowing us to help clients achieve the goal of developing and implementing cost-effective and protective cleanup approaches. These remediation projects can also involve consent orders, institutional controls, related permits, and even cost-recovery/contribution claims among potentially responsible parties (PRPs) and their insurance carriers - all of which require experienced legal counsel for effective resolution.

Our remediation team at Barnes & Thornburg includes experienced attorneys who can address:

### Why Barnes & Thornburg?

Finding new ways to help clients identify solutions and new business opportunities, across industries, is at our core. We are, at times, more than lawyers, we are advisers bringing new ideas to light. We understand what keeps you up at night and work collaboratively to find practical and creative solutions, at the heart of business.

### RELATED PRACTICES

Environmental

- Risk-based approaches to creatively address environmental contamination and obtain closure at sites efficiently and cost-effectively under various state and EPA programs
- Obtaining No Further Action and 'comfort letters' from regulators
- Remediation of sites involving specialized issues such as:
  - PCB impacts
  - Chlorinated VOCs
  - Manufactured gas plant contamination
  - Impacted sediments
  - Methane risks
  - LNAPL and DNAPL present in various geologies (e.g., karst formations)
  - Lead and other heavy metals
- Negotiating RI/FS, RD/RA, and other response action Consent Orders/Decrees, and subsequent compliance satisfaction and termination counseling
- Coordination, representation and administration of multiple PRP joint defense groups and clean-up trusts
- Off-site migration of contamination notifications, sampling access, and related strategies to mitigate exposures and minimize claims
- Pursuing recovery under historic and current insurance policies (including insurance archaeology/reconstruction)
- Representing PRPs in cost-recovery and contribution litigation
- Leaking underground storage tanks (USTs) corrective action projects
- Pipeline remediations
- Spill response, reporting and crisis management experience
- Natural Resource Damages (NRD) assessments, restoration projects, and claimed injuries defense involving federal, state and tribal trustees
- Agricultural site cleanups, including pesticide and herbicide storage and management, land application of residuals and Concentrated Animal Feeding Operations (CAFO) issues

## Vapor Intrusion

Vapor intrusion issues are at the forefront of remediation projects involving chlorinated solvents and petroleum across the U.S. Our environmental attorneys (including Dave Gillay in particular) are at the forefront of this evolving national topic; many have participated and presented at national vapor intrusion conferences, and have worked in conjunction with the Midwestern States Environmental Consultants Association (MSECA). We have provided substantive comments on U.S. EPA's national vapor intrusion guidance, have participated and presented at national vapor intrusion conferences, and are familiar with vapor intrusion guidance in other key states, including throughout Region 5.

Our environmental attorneys are integrally involved in these difficult vapor intrusion issues at sites around the country, as well as in related toxic tort litigation.

Examples of our environmental remediation experience include:

- Working with facility in EPA Region 3 to address remediation and restoration of a natural resource through a single plan that will address multiple regulatory and legal obligations. This effort includes the development of compliance agreements and facilitating the coordination among officials from multiple state and federal agencies, as well as other stakeholders.
- Represented owner of closed industrial facility in developing aggressive risk-based remediation approach approved by U.S. EPA Region 5 under RCRA Corrective Action Program, helping client save millions of dollars in remediation costs, and successfully negotiated settlement agreement with neighboring industrial facility owner impacted by contamination emanating from client's site.
- Led the efforts of more than a dozen companies to address an area-wide TCE groundwater plume emanating from an industrial park in Downers Grove, Illinois, and allegedly affecting nearly 700 homes served by residential wells. The matter required negotiation and a unique partnership with IEPA, USEPA and local governmental entities. The project resulted in a private/governmental partnership to implement a final remedy, which had the effect of addressing the human health risks much more quickly and at a far lower cost than if the traditional CERCLA steps had been followed. In addition, the remedial work was completed while toxic tort actions by a class of local homeowners and two individual personal injury actions were ongoing in parallel, and the proactive remedial efforts substantially reduced the group members' overall exposure in those actions. Also, we led the efforts by the same group to secure dismissal of the plaintiff class' RCRA citizens suit claims (thereby substantially reducing potential overall exposure) and led the same group in negotiations that led to settlement of the toxic tort class action and personal injury actions, and led efforts to dismiss RCRA citizens' suits and address class certification issues.
- Multi-year, multi-million dollar RCRA Corrective Action and Voluntary Remediation Program site development of successful risk-based remediation approach utilizing institutional controls to assist client satisfaction of obligations under Federal Court Consent Decree and related regulatory programs.
- Municipal-PRP defense representation for Natural Resource Damages (NRD) claims arising from PCB contamination in Saginaw River & Bay (also including Corps of Engineers as PRP); negotiated Consent Decree settlement with Federal, State and Tribal Trustees (involving sediments remediation and natural resources restoration projects); Michigan v General Motors, et al (Ingham County, Michigan Circuit Court; United States District Court for the Eastern District of Michigan).
- Lead counsel defending \$24 million cost recovery action filed by the United States against single defendant in U.S. District Court in New Jersey, while also representing same company in parallel proceedings to implement and modify remedy for the owned facility and regional groundwater plume in parallel proceedings brought by U.S. EPA under CERCLA (three operable units) and by New Jersey DEP pursuant to ISRA.
- Joint/shared defense counsel for PRP Groups at several NPL

Superfund Sites - such as MIDCO I and II, American Chemical Services, Fisher-Calo, 9th Avenue, and Wauconda Landfill - including negotiation of remedial action changes leading to ESDs and Amended RODs that substantially lowered remedial construction costs and long term operations and maintenance.

- Led the efforts of PRP Groups at several NPL Superfund Sites - including Midco I and II, American Chemical Services, Fisher-Calo, Northside Sanitary Landfill, Enviro-Chem, West KL Avenue Landfill, 9th Avenue, and Wauconda Landfill - to negotiate remedial changes leading to ESDs and Amended RODs that substantially lowered remedial construction costs and long term operations and maintenance.

Barnes & Thornburg environmental legal counsel provides counseling and strategic planning to cost-effectively investigate, remediate and obtain closure for facilities across North America with wide-ranging constituents of concern.

## Practice Leaders



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