

Environmental Litigation & Enforcement

Cozen O'Connor is a renowned trial firm with decades of experience in environmental litigation and enforcement. We handle complex disputes and successfully litigate industry-defining cases. Whether defending a novel permit, responding to a government investigation, or seeking a high-value recovery, Cozen O'Connor is efficient, responsive, strategic, and tenacious.

The team has deep collective governmental experience that it leverages in every engagement. Our roster boasts several former senior enforcement attorneys with the U.S. Environmental Protection Agency (EPA), including the former Regional Counsel for the Mid-Atlantic Region, and is chaired by the former Special Assistant to the EPA's Director of Civil Enforcement. Having worked on both sides of the table, Cozen O'Connor attorneys understand agency processes, constraints, and priorities.

Cozen O'Connor's Environmental Litigation team represents clients in matters concerning all major federal and state environmental laws: Clean Air Act, Clean Water Act, CERCLA and SARA, Endangered Species Act, Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act, and the Safe Drinking Water Act, among others.

Administrative Litigation

Attorneys litigate state and federal permit appeals, agency enforcement actions, and administrative rule challenges before the EPA, state environmental protection agencies, environmental hearing boards, and in other sophisticated administrative forums.

Civil Enforcement Defense

Cozen O'Connor guides client through government investigations, conducts internal investigations, and performs comprehensive audits, all with an eye toward achieving compliance and limiting exposure. Our experienced trial lawyers also defend clients in high-stakes state and federal civil actions with potential liability in the millions of dollars.

Private Party & Citizen Suit Litigation

The firm represents plaintiffs and defendants in cost recovery actions and in personal injury and property damage claims. We also handle the increasing amount of litigation brought by citizens or environmental advocacy groups seeking damages and injunctive relief for alleged environmental violations that regulators failed to enforce.

Appellate Litigation

Our team has extensive appellate capabilities and is often engaged to respond to lower court decisions in environmental litigation. Our attorneys are also adept at Natural Gas Act litigation in which the Federal Circuit Court of Appeals typically has original jurisdiction.

Experience

Won a motion for reconsideration that resulted in the client's dismissal from a Superfund case which originally named more than 1,000 defendants. The client was the first to be dismissed from the case with prejudice without settling. After initially securing dismissal of a joint and several liability claim under CERCLA Section 107, the court agreed to reconsider a portion of the decision allowing a Section 113 claim to proceed, acknowledged factual error, vacated a portion of the prior opinion, and dismissed the client from the action with prejudice.

Favorably resolved a cost recovery claim in 2019 on behalf of our client against a California municipal



Peter J. Fontaine
Chair, Environmental

pfontaine@cozen.com
Phone (215) 665-2723
Fax (856) 910-5075



Allison Lecker
Member

alecker@cozen.com
Phone (215) 665-6904
Fax (215) 665-2013



James F. Van Orden
Member

jvanorden@cozen.com
Phone (215) 665-4625
Fax (215) 665-2013

Related Practice Areas

- Business
- Environmental Regulatory & Due Diligence

utility, arising out of a 1980's massive gasoline spill which caused extensive groundwater contamination on our client's property and required approximately \$1.8 million in remediation expenditures. Under the terms of the settlement the municipal utility paid in excess of \$5 million in damages and assumed responsibility for future remediation on the property. In successfully resolving the client's 32-year environmental liability, we analyzed 25 years of soil and groundwater data, historical reports, surrounding properties, subsurface geology, and infrastructure to determine the origins of a gasoline contamination plume all of which supported a novel inverse condemnation theory of recovery culminating in the settlement.

On behalf of Perdue AgriBusiness, LLC, secured from the Pennsylvania Department of Environmental Protection the first-ever Nonattainment New Source Review construction permit for a soybean vegetable oil manufacturing facility in the United States, and then defended the permit in a citizen's group challenge before the Commonwealth of Pennsylvania Environmental Hearing Board. The case was the first of its kind in the United States and centered on claims that the facility's air pollution controls were insufficiently stringent under Pennsylvania's Air Pollution Control Act and the federal Clean Air Act, Lowest Achievable Emission Rate requirements. Following a two-week *de novo* trial, featuring the direct testimony of eight expert witnesses for our client, and the cross-examination of three opposing expert witnesses, the Board affirmed the facility's permit on all issues. The decision sets the standard for air pollution control for vegetable oil manufacturing in the United States.

Resolved underground storage tank litigation with the EPA on behalf of Fortune 500 company involving alleged failure to conduct monthly release detection monitoring at three retail gasoline locations.

Resolved a state enforcement action involving a chlorinated water pollution incident and resulting fish kill on behalf of Fortune 500 company.

Represent oil and gas production companies and midstream companies in Pennsylvania Environmental Hearing Board litigation regarding alleged violations of environmental statutes and regulations.

Represented an ethanol plant in challenges to air quality plan approval issued by Department of Environmental Protection.

Represented a waste processing company in permitting and litigation challenging permits.

Represented a company before the Pennsylvania Environmental Hearing Board in the defense of an approval issued to it allowing the use of oil and gas well drill cuttings for the capping of a Brownfields site.

Serve as national environmental counsel to a \$15BB publicly-traded services company which provides facilities and plant management services and owns and operates more than 50 industrial laundry plants across the United States.

Represented a multi-billion dollar corporation that provides water services throughout North America that was a subject of an investigation by a state and federal environmental crimes task force after its employees inadvertently discharged concentrated chlorine washwater to a stormwater system, resulting in a fish kill in a local stream. We persuaded the task force to drop the criminal investigation and to resolve the matter with a civil consent order and the payment of a nominal civil penalty.

Resolved underground storage tank litigation with the EPA on behalf of Fortune 500 company involving alleged failure to conduct monthly release detection monitoring at three retail gasoline locations.

Defended a Fortune 100 company in U.S. EPA underground storage tank litigation involving three National Park Service locations.
